

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Writ Petition No. 2596 of 2020

(1) Chandrakant s/o Kaluram Agrawal,
aged about 64 years.

(2) Pawan Kumar s/o Chandrakant
Agrawal, aged about 35 years,

Both residents of C.K. Steel Products,
Buldhana Road, Malkapur
District Buldhana.

.... Petitioners

// Versus //

(1) State of Maharashtra through the
Collector, Bulddhana

(2) The Sub-Divisional Officer, Buldhana

(3) The Tahsildar, Buldhana

(4) The Municipal Council, Buldhana
through its Chief Officer

.... Respondents

Mr. Anand Parchure, Advocate for the petitioners

Ms. T. H. Khan, A.G.P. for respondents 1 to 3

Mr. A. P. Kalmegh, Advocate for respondent 4

CORAM : ROHIT B. DEO, J.

DATED : 8-2-2022

ORAL JUDGMENT :

Hearing was conducted through Video Conferencing and the
learned Counsel agreed that the audio and visual quality was proper.

2. Rule. Rule made returnable forthwith. Heard finally with consent of learned counsel appearing for the parties.

3. The petitioners are assailing the decision of the Chief Officer, Nagar Parishad, Buldhana purporting to cancel the permission to convert land from agriculture to non-agriculture.

4. In view of the short submission of the learned counsel for the petitioners Mr. Anand Parchure that the order impugned falls foul of the direction issued by this Court while remitting the matter and that the order impugned is unreasoned, which was the flaw leading to the remand, only brief facts may be noticed.

5. The Chief Officer passed an order dated 18-1-2019 cancelling the permission to covert land admeasuring 1.21 HR from Field Survey 37/2 from agriculture to non-agriculture.

6. It appears that there was also an order of cancellation of Sanad which were assailed in Writ Petition 4921/2018. In view of the development, the petitioners preferred Civil Application 501/2019 in Writ Petition 4921/2018 challenging the subsequent order dated 18-1-2019 whereby the permission to convert user was cancelled.

7. Writ Petition 4921/2018 was disposed of by this Court vide judgment dated 27-3-2019. Paragraph 2 of the judgment reads thus :

“2. It has come on record that the aforesaid order dated 18-01-2019, passed by respondent no.4 cancelling the non-agricultural permission of the petitioners, was passed without giving an opportunity of hearing. Therefore, on this short ground the said order deserves to be set aside and the respondent no. 4 is required to give an opportunity to take into consideration the objections of the petitioners before passing any order concerning grant of non agricultural permission by order dated 13-02-2015. It is also an admitted position that the impugned order dated 27-04-2018, passed by the respondent no.3 Tahsilder cancelling Sanad was passed notwithstanding existing of the non agricultural permission in favour of the petitioners. Therefore, this Court finds that the said order dated 27-04-2018 also needs to be set aside and the question of grant of Sanad to the petitioners would obviously be contingent upon the issue regarding validity of grant of non agricultural permission to the petitioners.”

8. It is a matter of concern that despite this Court having set aside the order dated 18-1-2019 with the observations referred to supra, all that was done by the authority referred to supra was to grant hearing. However, the authority did not record any reason whatsoever for cancelling the permission for converting the user of land.

9. The principles of natural justice have been paid a lip service. Granting hearing to the affected party is, but one facet, of the principles of natural justice. However, equally important, if not more important, is

the duty to record reasons. While recording of elaborate reasons may not be required in every adjudication, the litigant is entitled to the assurance that he is fairly treated. Such assurance rests on the disclosure of the mind of the adjudicating authority. Absence of reasons do immense disservice to the process and the faith of the litigants in the adjudicatory mechanism is bound to be shaken, if the order is unreasoned.

10. In this view of the matter, I have no option but to set aside the order impugned dated 4-9-2020 and to remit the matter to the Chief Officer, Nagar Parishad, Buldhana for hearing the petitioners afresh and to pass fresh order after recording reasons.

11. The Chief Officer is requested to do the needful within the next 90 days. If the order impugned is adverse to the petitioners, the same shall not be acted upon for 15 days from its communication to the petitioners.

12. The petition is disposed of in the aforestated terms.

JUDGE

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Digitally signed by AVINASH
YUVRAJ WASNIK
Signing Date: 09.02.2022 18:08