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

WRIT PETITION NO. 4453/2018

M/s Shiv Krupa Trading Company, Gadchiroli,
through its Proprietor Jitendra Ashok Badekarmarkar,
aged about 38 years, Occupation : Business,
R/o Sarode Ward No.3, Near Rohidas Mandir
Gadchiroli. **PETITIONER**

.....VERSUS.....

1. The Additional Collector/Project Officer,
Integrated Tribal Development Project,
Gadchiroli.

2. Head Master, Government Ashram School,
Markandadev, Dist. Gadchiroli. **RESPONDENTS**

Shri Rajnish R. Vyas, counsel for the petitioner.
Ms Trupti Udeshi, Assistant Government Pleader for the respondent no.1.

CORAM : A. S. CHANDURKAR AND URMILA JOSHI-PHALKE, JJ.
DATE : 27TH JUNE, 2022.

ORAL JUDGMENT (PER : A.S. CHANDURKAR, J.)

RULE. Rule made returnable forthwith and heard the learned counsel for the parties.

2. The challenge raised in this writ petition is to the communication dated 23.02.2018 issued by the first respondent. By that communication, the Project Officer issued a show cause notice to the petitioner calling an explanation from the petitioner as to why 20% amount from the deposit that was maintained by the petitioner be not deducted for failure to supply mid-day meals as per the terms of the contract. In response to the show cause notice, the petitioner issued a

reply on 28.02.2018 denying the statements made in the show cause notice. However, on 23.02.2018, without waiting for the explanation from the petitioner, the first respondent issued a communication to the second respondent stating therein that the bills would not be passed if 20% amount was not deducted and in any case the bills for local purchase of the Year-2017 would not be paid if the same are submitted after March-2018. It is the grievance of the petitioner that without considering the petitioner's reply to the show cause notice, deduction of 20% has been made.

3. In the affidavit-in-reply filed by the first respondent it has been stated that the decision with regard to deduction was not taken by the first respondent while the Headmaster who is the second respondent has stated that the deductions were made as per the notice dated 23.02.2018.

4. After hearing the learned counsel for the parties it is seen that in response to the show cause notice given by the first respondent the petitioner had submitted its reply. However without considering that reply the deductions have been made. Such deductions are thus unwarranted.

5. In these facts, the interests of justice would be served by passing the following order:-

(I) The respondent no.1 shall consider its show cause notice dated 23.02.2018 and the reply submitted by the petitioner on 28.02.2018. The decision on the show cause notice be taken after granting an opportunity of hearing to the petitioner.

(II) Consequent upon such decision, if it is found that the amount in question is not liable to be deducted, the same shall be released in favour of the petitioner. If it is found otherwise, the petitioner would be free to take legal redress in accordance with law.

(III) The entire exercise be completed within a period of eight weeks from production of this judgment before the respondent no.1.

(IV) The points raised in that regard are kept open.

6. Rule is made absolute in aforesaid terms. No costs.

(**URMILA JOSHI-PHALKE, J.**) (**A.S. CHANDURKAR, J.**)

APTE