

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**WRIT PETITION NO. 2847 OF 2023**

Sudhakar Nivrutti Deshmukh

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Mr. Deepak D. Choudhari, Advocate for the Petitioner.

Smt. D. S. Jepae, AGP for Respondent Nos. 1 to 4.

Mr. A. M. Gaikwad, Advocate for Respondent No. 5.

**CORAM : KISHORE C. SANT, J.**

**DATED : 27<sup>th</sup> JUNE, 2023.**

**P C. :-**

. Heard learned advocate for the petitioner, learned advocate for respondent No. 5 and learned A.G.P. By consent of the parties, the matter is taken up for final disposal.

2. The petitioner has challenged the order dated 16.02.2021 passed by the Additional Secretary, Revenue and Forest Department, Mantralaya, Mumbai directing the petitioner to avail the remedy before the alternative authority. The petitioner had filed revision before the State Government challenging the order passed by the S.D.O., Ahmednagar dated 25.02.2021 thereby dismissing the appeal of the petitioner against the order passed by the Naib Tahsildar in case

No. 07/2019 dated 25.02.2020 in respect of entry taken into cultivation column in revenue record. In the order challenged before the State itself, the S.D.O. had made it clear that, the appeal can be filed before the Additional Collector against the order dated 25.02.2021.

3. The submission of learned advocate for the petitioner is that, the order passed by the S.D.O. was passed under Section 257 sub section 1 of the Maharashtra Land Revenue Code (hereinafter referred to as "MLRC") and in view of sub section 4 of Section 257 of the MLRC the revision would lie only before the State Government. His submission is that since it was a revision under Section 257 (4) of the MLRC, it was only the State Government/Minister which would have entertained the revision.

4. Mr. A. M. Gaikwad, learned advocate for respondent No. 5 and learned A.G.P submit that, the order is correctly passed and the petitioner is rightly directed to approach the Additional Collector by filing appeal. It is submitted that, in fact, the S.D.O. has exercised the power under Section 247 of the MLRC. Once the powers under Section 247 are exercised, the remedy is available to file appeal before the Additional Collector.

5. This Court finds that, though the petitioner before the S.D.O. had typed it as revision, however, in fact, it was an appeal under Section 247 of the MLRC and therefore second appeal is maintainable before the Additional Collector. Merely because, the application is typed as revision application will not affect the jurisdiction or the nature of the power exercised by the authority. If the S.D.O. has exercised the power under Section 247 of the MLRC, the same cannot be said to be exercise of powers in the nature of powers under Section 257 of the MLRC.

6. In view of the above discussion this Court finds that, no interference is called for and the petition deserves to be dismissed.

7. Since the appeal is already transmitted to the Additional Collector, no any other order will necessary to direct the Collector to decide the appeal.

8. In view of the above, the writ petition stands disposed off.

9. The parties shall assist the Additional Collector to get the matter disposed off at the earliest.

**( KISHORE C. SANT, J. )**

PS.B.