

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 3757 OF 2023

Amol Prakash Garad

..Petitioner

V/s.

The State of Maharashtra & Ors.

..Respondents

Mr. Anvil S.Kalekar for the Petitioner.

Mr. A.I.Patel Addl.G.P. a/w. Ms. M.S.Bane AGP for Respondent
No.1 to 8.

**CORAM : R.D.DHANUKA, AND
GAURI GODSE, JJ.**

DATE : 13 APRIL 2023

P.C.

. Rule. Mr.Patel Learned AGP waives service for all the
Respondents. Rule is made returnable forthwith. By consent
of the parties, the Petition is taken up for final hearing.

2. This petition is filed under Article 226 of Constitution of
India, for quashing and setting aside order dated 06/03/2023
passed by Respondent No.3. By the impugned order the
Petitioner is restrained from doing the Stone Crushing
activity, carried out by way of license granted on 20/11/2022
to the Petitioner. Learned Counsel for the Petitioner was
restrained without assigning any reason and without giving

any opportunity of hearing. We have perused the impugned order . Perusal of the impugned order indicates that no notice was given to the Petitioner or any hearing was given to him before passing the impugned order. Learned AGP is unable to dispute whether any such notice or hearing was given to the Petitioner before passing the impugned order. Learned Counsel for the Petitioner states that in such circumstances, Respondent No.3 can be directed to give hearing to the Petitioner and the Petitioner may be allowed to respond to the allegations. In such circumstances, writ petition can be disposed of by treating the impugned order as Show Cause Notice to the Petitioner and allow the Petitioner to file his reply to the same and decide the matter after giving him hearing.

3. Hence, following order is passed:

Order

- a) Order dated 06/03/2023 passed by Respondent No.3 is treated as Show Cause Notice to the Petitioner.
- b) The Petitioner is permitted to file his reply before Respondent No.3 within a period of two weeks from today.
- c) The Petitioner will appear alongwith his reply before Respondent No.3 on 28/04/2023 at 11.00a.m. Respondent

No.3 shall give hearing and consider Affidavit in Reply that will be filed by the Petitioner and pass necessary orders within a period of three weeks after giving hearing to the Petitioner.

d) In the event if the order passed by Respondent No.3 is adverse to the Petitioner, in that event, the Petitioner is at liberty to adopt appropriate proceedings as permissible in law.

4. It is made clear that we have not expressed any view on the merits of the matter and Respondent No.3 shall take its decision on its own merit without being influenced by the order passed on 06/03/2023.

5. It is made clear that Petitioner will not carry out Stone crushing activity till the decision is taken by Respondent No.3.

6. Writ Petition is disposed of in aforesaid terms. Rule is made absolute. No order as to costs.

7. Parties to act on authenticated copy of this order.

GAURI GODSE, J.

R.D.DHANUKA, J.