

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

WRIT PETITION NO. 12805 OF 2022

Mr. Balwant Jaywant Khade

...Petitioner

Versus

The State of Maharashtra and Ors.

...Respondents

...

Mr. Narayan Rokade a/w Mr. Ajinkya Taskar, for Petitioner.

Mr. S.H. Kankal, A.G.P. for Respondent Nos.1 to 5 - State.

...

CORAM : SANDEEP V. MARNE, J.

DATE : SEPTEMBER 12, 2023.

P.C.:

1. By this Petition, Petitioner challenges order dated 17 January 2019 passed by the Tahsildar Nandgaon under the provisions of Section 48(7) of the Maharashtra Land Revenue Code, 1966 by which the Petitioner has been directed to pay an amount of Rs.7,68,000/- towards royalty for unauthorized excavation of minor minerals. Petitioner's appeal came to be rejected by Sub-Divisional Officer by order dated 14 January 2020. His further appeal came to be rejected by the Additional Collector by order dated 14 June, 2021. Petitioner thereafter filed an Appeal before the Divisional Commissioner, Nashik which has also been rejected by order dated 22 March

2021.

2. I have heard the learned counsel appearing for Petitioner and the learned A.G.P. for the Respondents-State.

3. It appears that based on panchanama drawn on 15 December 2018, a show cause notice dated 9 January 2019 was addressed to Petitioner calling him upon to submit his explanation by 14 January 2019. Petitioner's claim is that he received notice on 15 January 2019, which was after the date fixed for hearing. Tahsildar thereafter proceeded to pass an order on 17 January 2019 in absence of any reply filed by Petitioner. The orders passed by Tahsildar Nandgaon, Sub-Divisional Officer, Additional Collector and Divisional Commissioner, Nashik do not dispute the position that Petitioner received the notice on 15 January 2019.

4. In that view of the matter it cannot be said that the Petitioner was granted adequate opportunity of hearing by Tahsildar before passing order dated 17 January 2019. The orders passed by Tahsildar on 17 January 2019, by Sub-Divisional Officer on 14 January 2020, by the Additional Collector on 14 June 2021 as well as by the Divisional Commissioner on 22 March, 2021 are accordingly set aside.

5. The proceedings are restored before the Tahsildar.
6. Petitioner shall reply to the notice dated 9 January 2019 before Tahsildar within a period of three weeks from today. Tahsildar shall thereafter pass afresh order considering the defence raised by Petitioner in the reply.
7. Petitioner shall deposit 50% amount of Rs.7,68,000/- with the Tahsildar within a period of three weeks from today. Deposit of amount shall be pre-condition for restoration of proceedings before the Tahsildar.
8. If the Petitioner fails to deposit 50% amount, the orders passed by Tahsildar, Sub-Divisional Officer, Additional Collector, and Divisional Commissioner shall stand restored.
9. With the above observations Writ Petition is disposed of.

(SANDEEP V. MARNE, J.)