

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

WRIT PETITION NO.751 OF 2021

Mohd. Ishaq Haji Mohd. Sadiq, Bhaldarpura, Juna Jaikhana Road, Nagpur

-vs-

Nagpur Municipal Corporation, Thr. its Commissioner, Civil Lines, Nagpur and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri N. G. Jetha, Advocate for petitioner.

Shri R. M. Sharma, Advocate for respondent No.3.

CORAM : A. S. CHANDURKAR AND MRS VRUSHALI V. JOSHI, JJ.

DATE : January 17, 2023

P.C.

Rule. Rule made returnable forthwith.

There is no appearance on behalf of respondent Nos.1 and 2.

We have however heard the learned counsel for the petitioner and the respondent No.3. Both of them are brothers. The respondent No.3 had given his no-objection to the petitioner for running his engineering work unit. The respondent No.3 has however subsequently sought to withdraw his no-objection certificate by the communication dated 26/12/2019 addressed to the respondent No.2. Accordingly on 10/01/2020 a notice was issued to the petitioner calling his response to the request for cancellation of the no-objection certificate. The petitioner filed various documents on 11/01/2020. On 20/02/2020 the no-objection certificate came to be cancelled. It is the grievance of the petitioner that this order has been passed without hearing the petitioner. Reference is made to ground [A] of

the writ petition.

We find that though notice proposing to cancel the no-objection certificate was given to the petitioner, he has not been heard before such action has been taken. Since the petitioner was running the said unit, it was necessary for the respondent Nos.1 and 2 to have heard the petitioner as well as respondent No.3 before passing the impugned order. Hence on the ground that the petitioner was not heard before passing the impugned order, the same is liable to be set aside.

In view of aforesaid, the following order is passed :

- (i) The order dated 20/02/2020 is set aside as it has been passed without complying with the principles of natural justice.
- (ii) The petitioner as well as respondent No.3 shall attend the office of respondent No.2 on 30/01/2023.
- (iii) The respondent No.2 shall hear the petitioner as well as respondent No.3 on the notice issued by the said office on 10/01/2020 and thereafter take a decision on the same within a period of four weeks from that date. The decision be communicated to both the parties.
- (iv) All points raised by the parties are kept open for being urged before the respondent No.2.

With aforesaid directions, Rule is made absolute.

No order as to costs.

(Mrs Vrushali V. Joshi, J.)

(A. S. Chandurkar, J.)

Asmita