

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

WRIT PETITION (WP) NO.3836 of 2022

Shri Sudesh s/o Babarao Bandunana Lonkar Vs. State of Maharashtra through SDO,
Yavatmal and 12 others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.R. Wagh, Advocate for the Petitioner
Shri K.L. Dharmadhikari, AGP for the Respondent Nos.1 and 2/State.
Shri S.P. Kshirsagar, Advocate for the respondent Nos.3 to 13.

**CORAM : ANIL S. KILOR, J.
DATED : 21.02.2023**

1. Heard.
2. This writ petition came to be filed raising a challenge to the order dated 17.06.2022 passed by the Sub Divisional Officer(SDO), Yavatmal, dismissing the review application filed by the petitioner, challenging the order of Tahsildar dated 09.05.2022, granting right of way to the respondent nos.3 to 13 from the Dhura of the field of the petitioner.
3. After going through the order passed by the SDO, on the face of it, it is illegal for a simple reason that the SDO has not at all

considered the case of the petitioner as well as the respondent Nos.3 to 13 and without referring a single reason, only on the ground that the earlier revision application filed by the petitioner was entertained and as the matter was remanded back to the Tahsildar for fresh decision, after fresh decision by the Tahsildar, he cannot entertain the revision application.

4. Thus, the reason itself is erroneous and not sustainable in the eye of law and therefore, without going into the merit of the matter, I am of the opinion that this matter needs to be remanded back to the SDO, Yavatmal to decide the same afresh, after hearing both parties and after recording the reasons on the submissions made by both the parties and after considering the law as regards right of way.

5. The learned AGP undertakes to communicate this order to the SDO, Yavatmal, with the observation made by this Court.

6. As the matter is about right of way and the interim order is in operation since 11.07.2022 in favour of the petitioner to which, Shri Kshirsagar, learned counsel for the respondent Nos.3 to 13,

is opposing to continue the same on the ground that it is a question of right of way of eleven agriculturists, I am of the opinion that without vacating the interim order, to direct SDO, Yavatmal to decide the revision application of the petitioner expeditiously and not beyond two weeks from the date of appearance of both the parties.

7. The petitioner and the respondent Nos.3 to 13 undertake to co-operate SDO, Yavatmal to decide the revision application within stipulated period. Accordingly, I pass the following order:

- (i) The writ petition is **partly allowed**.
- (ii) The order dated 17.06.2022 passed by the Sub Divisional Officer, Yavatmal, is quashed and set aside.
- (iii) The SDO, Yavatmal is directed to decide the revision application expeditiously and not beyond two weeks from the date of appearance of the parties.

(iv) Both the parties are directed to appear before the SDO,
Yavatmal on **28.02.2023 at 11.00 a.m.**

Rule accordingly. No costs.

[ANIL S. KILOR, J.]