

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

WRIT PETITION (WP) NO.5975 OF 2022

- 1) Krushna S/o Sahebrao Mute,
Aged about 50 year, Occupation –
Business, R/o. At and Post Salod
hirapur, Tehsil and District -Wardha.

.... Petitioner(s)

// VERSUS //

- 1) State of Maharashtra,
through the Collector (Revenue),
Wardha.
- 2) The Tehsildar,
Tehsil Office, Wardha, District –
Wardha.
- 3) Naib Tehsildar, B.S. Bhagwat,
Tehsil office, Wardha, District –
Wardha.
- 4) The Sub Divisional Officer,
Sub Divisional Office, Wardha.

Added as per Court's
Order dt. 27/9/2022

... Respondent(s)

Shri T.H. Bewali, Advocate for the Petitioner
Shri D.P. Thakare, Addl.G.P. for the Respondent Nos.1 to 4/State

**CORAM : ANIL S. KILOR, J.
DATED : 14th March 2023**

ORAL JUDGMENT :

1. Heard.

2. **Rule.** Rule made returnable forthwith. Heard finally by consent of the parties.

3. In this writ petition, a challenge is raised to the order dated 04.07.2022 passed by the Sub Divisional Officer (SDO), Wardha, imposing penalty of Rs.8,50,000/- for illegal excavation and transportation of minor minerals.

4. The only ground raised by the learned counsel for the petitioner to challenge the impugned order, is that the SDO, before passing the said order, did not grant an opportunity of being heard to the petitioner and no notice was issued to the petitioner.

5. The learned AGP has pointed out that the Tahsildar issued notice to the petitioner and in response to the said notice of the Tahsildar, the petitioner has submitted his reply. He therefore, submits that a compliance of notice and principles of natural justice is there and therefore, there is no legal infirmity in the impugned order.

6. After going through the record, it is evident that no document is produced by the SDO on record to show that any notice was served upon the petitioner before passing of the impugned order dated 04.07.2022.

7. There is no doubt that the Tahsildar issued notice dated 30.5.2022 which was replied by the petitioner on 02.06.2022. However, the impugned action was taken by the SDO and therefore, it was expected that before passing the order dated 04.07.2022, the SDO ought to have granted opportunity of being heard to the petitioner, which he has not granted. Accordingly, I am of the opinion that the order passed by the SDO dated 04.07.2022 needs to be quashed and set aside and the matter shall be remanded back to the SDO to decide the same afresh, after hearing the petitioner. Accordingly, I pass the following order:

(i) The writ petition is partly **allowed**.

(ii) The order dated 04.07.2022 passed by the Sub Divisional Officer, Wardha, is hereby quashed and set aside.

(iii) The matter is remanded back to the Sub Divisional Officer, Wardha to decide the same afresh, after hearing the petitioner.

(iv) The petitioner shall appear before the Sub Divisional Officer, Wardha on 20.03.2022 at 12.00 noon.

Rule accordingly. No costs.

[ANIL S. KILOR, J.]