

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

Writ Petition (WP) No. 5508 of 2018

Pandurang S/o Vilas Chavan and another

Versus

State of Maharashtra, through its Secretary Revenue Department,
Mantralaya, Fort, Mumbai and others

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

Court's or Judge's Order

Shri S.S.Deshpande, Advocate for the petitioners.

Ms. Shamsi Haider, AGP for the respondent/State.

CORAM : ANIL S. KILOR, J.

DATED : 14th JUNE, 2023.

Learned counsel for the petitioners points out that the impugned order dated 19th June, 2018 passed by the Tahsildar, Risod in Case No. MNL-37/Risod/44/2017-18 and the impugned order dated 19th July, 2018 passed by the Sub Divisional Officer, Washim in Misc. Application No. 52/2017-18, were passed in violation of principle of natural justice.

2. He submits that the vehicle involved in the alleged illegal transportation of sand owned by the petitioner No.2, whereas the notice in respect of imposition of penalty was served upon the petitioner

no.1. He further submits that Tahsildar imposed the penalty without issuing the notice to the petitioner no.2 owner of the vehicle. Nevertheless, the notice was served upon the petitioner no.1 who is not the owner of the vehicle.

3. Learned Assistant Government Pleader for the respondent/State though disputing the above referred fact, however, failed to pointed out that the petitioner No. 2 was served.

4. In the circumstances, I have no hesitation to hold that the impugned orders dated 19th June, 2018 passed by the Tahsildar and the 19th July, 2018 passed by the Sub Divisional Officer imposing penalty of Rs.2,77,400 suffer from non-compliance of principle of natural justice and needs to be quashed and set aside. Accordingly, I pass the following order.

- i. Writ petition is partly allowed;
- ii. Order dated 19th June, 2018 passed by the Tahsildar, Risod in Case No. MNL-36/Risod/44/2017-18 and the impugned order dated 19th July, 2018 passed by the Sub Divisional Officer, Washim in Misc. Application No. 52/2017-18 are hereby quashed and set aside and
- iii. The matter is remanded back to the Tahsildar, Risod to decide the same afresh.

iv. The petitioner shall appear before the Tahsildar, Risod on **28th June, 2023** at 11 am and Tahsildar shall take a decision afresh after hearing both the petitioners.

[ANIL S. KILOR, J.]