

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

**CAW NO.264 OF 2021 IN
Writ Petition No.7056 of 2018**

M/S Shri Hariom Krishi Kendra, Proprietor, Shri Manikrao S/O Ganaji Yenchilwar
Vs

State Of Maharashtra, In The Ministry Of Revenue And Forest, Through Its
Secretary, Mumbai

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

Court's or Judge's Order

Shri V.S. Kukday, Advocate for the Petitioner/s
Ms H.N. Jaipurkar, AGP for the Respondent Nos.1 to 3/State
Shri N.R. Bhishikar, Advocate for the Intervenor

**CORAM : ANIL S. KILOR, J.
DATED : 26.07.2023**

1. Heard.
2. In this application for intervention, it is the case of the applicant that he made numerous complaints against the petitioner and he has a knowledge about the numerous illegalities committed by the petitioners.
3. The present matter pertains to illegal excavation and considering the provisions as regards penalty to be imposed in such matters, I am of the opinion that no assistance of applicant is required in this matter for deciding the issue involved in the present matter. Accordingly, the application is **rejected**.

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4. The Additional Collector, Chandrapur, imposed a penalty of Rs.2,13,44,400/- on the petitioner, alleging that the petitioner illegally excavated the minor minerals.

5. The only ground raised in this writ petition while seeking to set aside the impugned order dated 26.09.2018 is that, the said order was passed without granting an opportunity of being heard to the petitioner and further the documents on which the Additional Collector has placed reliance while passing the impugned order and while making the allegation in the show cause notice, those documents were not served upon the petitioner along with the show cause notice and thereby, no sufficient opportunity was granted to the petitioner to defend his case. It is therefore, submitted that the impugned order suffers from the principles of natural justice.

6. The learned AGP is not disputing the fact that a hearing was not granted to the petitioner before passing the impugned order.

7. In the circumstances, I am of the opinion that without going into the merits of the matter, as the order suffers from non-compliance of the principles of natural justice, the matter needs to be remanded back to the Additional Collector, Chandrapur to decide the same afresh, after hearing the petitioner and after supplying him necessary documents, if any on which the Additional Collector, Chandrapur wants to place reliance while passing the order. Accordingly, I pass the following order:

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

(ii) The order dated 26.09.2018 passed by Additional Collector, Chandrapur, is hereby quashed and set aside.

(iii) The matter is remanded back to the learned Additional Collector, Chandrapur for deciding the same afresh, after hearing the petitioner and after following the principles of natural justice.

[ANIL S. KILOR, J.]