

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO. 12222 OF 2024

Hidayat Ahmad Nadaf

.... Petitioner

Versus

State of Maharashtra Thr. Additional Respondents
Divisional Commissioner and Ors.

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Dr. Uday Warunjikar a/w Mr. Siddhesh Pilankar, Advocate for the
Petitioner.

Mr. S. H. Bhogle, 'B' Panel, Advocate for the Respondent Nos.1 & 2.

CORAM : R. M. JOSHI, J.

DATE : 6th SEPTEMBER, 2024.

P.C. :

1. This petition takes exception to order dated 19th July, 2024 passed by Divisional Commissioner Pune, Pune Division in proceeding No.21 of 2023 under the Maharashtra Village Panchayat Act, 1959.

2. The only contention of the learned counsel for the Petitioner is that the order impugned has been passed without giving

opportunity of hearing and in-violation of principle of natural justice. To support his submissions, he has indicated documents placed on record i.e E-mail send by the Advocate for the Petitioner to the Authority indicating that on account of sickness he is unable to attend the hearing. There is no dispute about the fact that this E-mail was received by the Authority. In spite of receiving such intimation indicating illness of the Advocate, the proceeding was closed and order impugned came to be passed.

3. Learned AGP for the State opposes the petition, on the ground, that Roznama recorded by the Authority in the said proceeding indicates that sufficient opportunity was given to the Petitioner. It is his grievance that the proceeding could not be completed at earlier point of time owing to the reason attributable to the Petitioner himself.

4. Considering the circumstances in which Advocate of the Petitioner could not attend hearing on 09/07/2024 before the Divisional Commissioner, Pune, this Court finds that an opportunity must be given to the Petitioner. Hence, order impugned cannot sustain and accordingly set aside.

5. It is clarified that this Court has not gone into the merits of

case. It is open for the Divisional Commissioner to pass appropriate order in accordance with law, after giving opportunity of hearing to both sides.

6. Learned counsel for the Petitioner makes statement, on instructions, that the Petitioner and his Advocate would appear before the Additional Divisional Commissioner on 18/09/2024. The hearing be completed on the same day.

7. It is clarified that if the Petitioner for any reason fails to appear before the Authority on the scheduled date, it shall be open for the Authority to pass appropriate order, in accordance with law.

8. The petition stands disposed of in above terms.

(R. M. JOSHI, J.)