

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

WRIT PETITION NO.54/2019

Ashutosh s/o Madanmohanlal Jaiswal and another
 Vs.

Nagpur Municipal Corporation, through its Municipal Commissioner, Nagpur and
 another

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

 Shri G.I. Dipwani, Advocate for petitioners
 Shri J.B. Kasat, Advocate for respondent Nos.1 and 2

CORAM : ANIL S. KILOR AND
SMT. M.S. JAWALKAR, JJ..
DATED : 20/03/2024

At the outset, Shri Kasat, learned Counsel for respondents raises an objection to the tenability of the petitioners on the ground of alternate remedy by way of appeal, before the learned Civil Judge Senior Division.

2. In that view of the matter, the learned Counsel for petitioners seeks permission to withdraw the present petition with liberty to file appeal.

3. Considering the language of Section 406 of the Maharashtra Municipal Corporation Act, which relates to appeal, the words used are: '*unless the amount of disputed tax claimed in the appeal has been deposited by the appellant with the Commissioner*', liberty is granted to the petitioner to file an appeal by depositing the disputed tax amount only and not the amount of penalty with the Commissioner, within 30 days from today. As far as limitation is concerned, the Appellate Authority may

exclude the period from 03/01/2019 i.e. the date of filing of this petition, till the date of filing of appeal, if the appeal is filed in next 30 days, from today.

JUDGE

JUDGE

R.S. Sahare