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

WRIT PETITION NO.175 OF 2019

Ananda Awadhooth Deole **.Vs.** The State of Maharashtra, through its Secretary, Department of Revenue, Mantralaya, 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

Mrs. R.S. Sirpurkar, Advocate for petitioner.
Shri N.S. Rao, A.G.P. for respondents/State.

CORAM : ANIL S. KILOR, J.
DATED : 09/01/2024

1. Heard.

2. In the present matter, the impugned order dated 12.12.2018 passed by the Tahsildar, Malegaon reviewing his own order dated 03.05.2018 and thereby cancelling the non-agricultural permission granted earlier, is under challenge.

3. The power of review in such matter is given under Section 258 of the Maharashtra Land Revenue Code, 1966 (for short "MLR Code"), which read thus:

> ***"258. Review of orders***
>
> *(1) The State Government and every Revenue or Survey Officer may, either on its or his own motion or on the application of any party interested, review any order passed by itself or any of its or his predecessors in office and pass such orders in reference thereto as it or he thinks fit:*
>
> *(2) No order shall be reviewed except on the following grounds, namely :-*

> *(i) discovery of new and important matter or evidence;*
> *(ii) some mistake or error apparent on the face of the record;*
> *(iii) any other sufficient reason.*
>
> *(3) For the purpose of this Section the Collector shall be deemed to be the successor in office of any Revenue or Survey Officer and to whom there is no successor in the district.*
>
> *(4) An order which has been dealt with an appeal or on revision shall not be reviewed by any Revenue or Survey Officer subordinate to the appellate or revisional authority.*
>
> *(5) Order passed in review shall on no account be reviewed."*

4. The language of the above referred provisions leaves no element of doubt that review is permissible in the present matter only on grant of sanction by the authority to whom the Tahsildar is immediately subordinate.

5. Though the impugned order records the objection raised by the petitioner as regards the jurisdiction under Section 258 of the MLR Code in absence of any such sanction by the higher authority, admittedly, the Tahsildar did not deal with the said argument and has not observed anything relating to sanction obtained by the Tahsildar before reviewing the order dated 03.05.2018.

6. Moreover, no such sanction or authority is filed along with the reply by the Tahsildar in this writ petition and therefore, I am of the opinion that, as the said point

goes to the root of the matter and decides the jurisdiction of the Tahsildar to review the order, under Section 258 of the MLR Code, it is necessary to remand the matter back to the Tahsildar to decide the same afresh after taking into consideration the objection raised by the petitioner as regards the jurisdiction of the Tahsildar to review under Section 258 of the MLR Code. Accordingly, I pass the following order:

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

ii) The impugned order dated 12.12.2018 passed by the Tahsildar, Malegaon in Revenue Case No. N.A.P.34/Nagartas/20/2017-2018, is hereby quashed and set aside.

iii) The matter is remanded back to the Tahsildar to decide the same afresh after hearing both the parties and after taking into consideration the above referred observation made in the judgment.

Writ Petition is **disposed of** accordingly. No order as to costs.

JUDGE