

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

WRIT PETITION NO. 614 OF 2024

Gajanan Gyanba Shekapure,
Aged about 36 years,
Occupation : Business
R/o Moti Nagar, Pusad, Tah. Pusad,
Distt. Yavatmal

PETITIONER

VERSUS

1 The Assistant District Magistrate and
Sub Divisional Officer, Pusad,
Tah. Pusad, District – Yavatmal

RESPONDENTS

2 The Tahsildar, Pusad,
Tah. Pusad, District Yavatmal

3 District Mining Officer, Yavatmal,
District – Yavatmal

Mr. A.R. Ingole, Advocate for petitioner

Mr. B.M. Lonare, AGP for Respondents / State

CORAM : BHARAT P. DESHPANDE, J.

DATE : 11th MARCH, 2024

ORAL JUDGMENT

Rule. Rule is made returnable forthwith. Heard both
the parties at the admission stage with consent.

2. The challenge in the present petition is the order dated
05/08/2023, passed by the Sub-Divisional Officer, Pusad. Vide

the said order concerned Authority have imposed fine on the basis of e-TP (Transport Permit).

3. It is the contention of the petitioner that no proper documents were supplied to him along with the show cause notice so as to file the reply and defend the show cause notice.

4. The learned counsel for the petitioner submits that in similar circumstances, this Court in Writ Petition No. 7771/2023, decided on 16/01/2024, remanded the matter back to the concerned Authority by observing in para Nos.6, 7, 8 and 9, which reads thus :

“6. The show cause notice, which the learned A.G.P. is referring to, says that from e-TP history and GPS it was revealed that as per last 10 e-TP the said vehicle did not go to the location. Hence, the explanation was called in relation to the same from the petitioner vide show cause notice dated 11/07/2023.

7. The petitioner in his reply has categorically stated that no documents were supplied to the petitioner in respect of misuse of the e-TP and therefore, the petitioner has shown his inability to give reply to the show cause notice.

8. Thus, it was expected that the Sub-Divisional Officer before passing the order ought to have made clear that what are the specific allegations against the petitioner and what material the Sub-Divisional Officer possesses and ought to have supplied the same

to the petitioner so as enable him to give detail reply to the show cause notice. However, the Sub-Divisional Officer has failed to do so and did not supply the necessary documents requested by the petitioner.

9. In that view of the matter, the only option left with this Court to remit the matter back to the SubDivisional Officer to decide the same after giving detailed show cause notice along with the documents on which the Sub-Divisional Officer wants to rely upon while determining the penalty as regards breaches allegedly committed by the petitioner. Accordingly, I pass the following order:”

5. The learned Assistant Government Pleader appearing for the State fairly submitted that the above observations of this Court are squarely applicable to the facts and circumstances of the matter in hand. He submits that the matter needs to be remanded to the concerned Sub-Divisional Officer to decide the show cause notice after giving all the details as mentioned therein along with the documents in order to enable the petitioner to file reply while determining the penalty against the alleged breach.

6. On perusal of the documents and show cause notice, it reveal that the petitioner was unable to file effective reply and defend himself for want of necessary material and documents.

Non-supply of such documents clearly amounts to denial of proper opportunity and violations of principle of natural justice. Accordingly on this ground itself, the petition could be allowed and the matter could be remitted to the Sub-Divisional Officer to decide the show cause notice afresh by giving all the details and documents to the petitioner so that he would be able to file affidavit reply to such show cause notice

7. The petition is accordingly partly allowed. The impugned order is hereby quashed and set aside. Revenue Case No. 23/MNL-37/2023-2024 Mouza Shelu Phata, Tah. Pusad, District Yavatmal is remitted to the concerned Sub-Divisional Officer with direction to decide the same afresh by giving necessary documents and information to the petitioner and allowing him to file reply thereon. The concerned Sub-Divisional Officer to dispose of such show cause notice in accordance with law and by following principles of natural justified within a period of four weeks.

8. The petitioner shall appear before the concerned Sub-Divisional Officer on 18th March, 2024 at 11:00 AM.

9. The petition stands disposed of in the above terms. No costs.

10. Rule is made absolute in the above terms.

(BHARAT P. DESHPANDE, J.)

MP Deshpande