



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
WRIT PETITION NO. 5057/2023

Nitesh Janardan Gaigole .Vs. Additional Commissioner, Amravati Division,
Amravati and Ors.

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

Court's or Judge's orders

Mr. K. P. Mahalle, Advocate for petitioner.

Mr. A. J. Gohokar, A.G.P. for respondent Nos. 1 to 4.

CORAM : ANIL L. PANSARE, J.

DATE : 25.07.2024

Heard.

2. On 02.07.2024, following order was passed.

"Heard.

One of the grounds of challenge is that order dated 20-6-2022 has been passed by the Sub Divisional Officer (SDO), Akot without giving opportunity of hearing to the petitioner. Thus, it is argued that the order suffers from breach of principles of natural justice.

Learned AGP could not show that such opportunity was given to the petitioner. The order under question is penal in nature, the opportunity of hearing ought to be given to the petitioner.

Learned counsel for the petitioner, at this stage, makes a request to release the vehicle, namely, Poclain, which according to him is the only source of income of the petitioner. The vehicle has been seized on 4-1-2022 by Naib Tahsildar, Telhara. Surprisingly, on the same day, the vehicle has been handed over on supartnama to one Raju Tarale, Police Patil of Yedalapur. When enquired, learned AGP could not point out to me any provision under which the vehicle seized can be released in favour of third party. The vehicle is thus lying with Raju Tarale.

Learned AGP shall take instructions as to under what provision, this vehicle has been handed over to third party. Learned AGP shall further take instructions as to what steps were taken by the SDO to protect the vehicle in the sense the vehicle is lying idle for last two years. Nobody knows the status of the vehicle viz. the manner in which it has been kept, whether in garage or exposed to atmosphere.

Section 48(8)(2) of the Maharashtra Land Revenue Code, 1966 provides that machinery or equipment, if seized, shall be produced before the Collector or such other officer, not below the rank of Deputy Collector, authorized by the Collector in this behalf, within a period of 48 hours. This has been not done in this case, rather it has been handed over to the third party. Learned AGP shall take instructions in this regard as well.

Stand over to 8-7-2024.”

3. Learned A.G.P. submits that the record does not indicate that opportunity of hearing was given to the petitioner by the Sub Divisional Officer (hereinafter referred to as the, “SDO”).

4. In that view of the matter, order dated 20.06.2022, passed SDO, Akot, is liable to be quashed and set aside as it violates the principles of natural justice. This vital aspect has been not considered by the respondent Nos.1 and 2 as well and, therefore, the orders passed by these respondents viz. orders dated 08.05.2023 and 19.10.2022, are liable to be quashed and set aside.

5. So far as the last paragraph of the order dated 02.07.2024 is concerned, the learned A.G.P. submits that Section 7 (4) of the Maharashtra Land Revenue Code, 1966 (hereinafter

referred to as the, “MLR Code”) empowers the Collector to appoint as many persons as he thinks fit to be Circle Officers and Circle Inspectors to be incharge of circle and one or more Talathis for a saza and one or more Kotwals or other village servants for each village or group of villages, as he may deem it. Accordingly, he submits that these persons so appointed would also be the revenue offices in the district. Police Patil, being one of such officers, is the revenue officer.

6. This argument cannot be accepted for more than one reasons. Firstly, the order of Collector appointing Police Patil as revenue officer in terms of Section 7 (4), is not placed on record. Secondly, it is not the Police Patil, who has seized the vehicle. The Naib Tahsildar, Telhara has seized vehicle and handed it over to the Police Patil, Yedalapur. This action, to my mind, is not supported by the provisions of the MLR Code or any other law for the time being in force. The Sub Divisional Officer, therefore, shall consider the above lapses as well.

7. At this stage, counsel for the petitioner requested to release the vehicle on the count that it is lying idle and is deteriorating.

8. This request cannot be acceded to for the reason that the Naib Tahsildar has, in terms of Section 7(4) of the Code, has seized the vehicle and has imposed the penalty, which has been not yet paid. The proceeding before the SDO has been restored back as he did not give an opportunity of hearing to the petitioner. In the circumstances, the best that could be done is to direct the SDO to decide the inquiry within 30 days from the date of receipt of the order. So far as the vehicle lying idle, the

petitioner will be at liberty to seek damages for the wrongful act done by the revenue authorities in handling the vehicle, of course, if proved by the petitioner.

9. Accordingly, the inquiry MNL-37/Sadarpur/01/2022-23 is restored on the file of Sub Divisional Officer, Akot to decide it afresh, in accordance with law and in terms of what has been said in the body of the order.

10. The petition is disposed of in the above terms. No order as to costs.

(Anil L. Pansare, J.)

Kahale