



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**BENCH AT AURANGABAD**

**43 WRIT PETITION NO. 3538 OF 2022**

ISHWAR DHONDIBA NAIKWADE AND ANOTHER  
**VERSUS**  
NANDED WAGHALA CITY MUNICIPAL CORPORATION

...  
Mr. Upendra B. Bilolikar – Advocate for Petitioners  
Mr. R.K. Ingole – Advocate for Respondent  
...

**CORAM : SIDDHESHWAR S. THOMBRE, J.**  
**DATE : 08.12.2025**

**J U D G M E N T :**

1. Heard. Rule. Rule made returnable forthwith. Heard the petition with the consent of the learned Counsel appearing for the respective parties at the stage of admission.

2. The petitioners assail the order dated 02.07.2014 passed by the Municipal Commissioner and dated 07.10.2021 passed below Exhibit 84 by the Principal District Judge, Nanded in Regular Civil Appeal No.92/2014, whereby appeal filed by the petitioners came to be dismissed.

3. After receipt of the notice under Section 81-B(2) of the Maharashtra Municipal Corporations Act, 1949 ('the Act' fort short), the petitioners submitted their reply. After submission of the reply, the

petitioners were directed to remain present for hearing.

4. Learned Counsel for respondent placed the record for perusal. Upon perusal of the same, it appears that the petitioners had sought time before the authority. It is recorded that on the date of hearing the petitioners appeared in person and sought time, the authority observed that written arguments were to be filed. However, it is found that no such written arguments were in fact placed on record. Therefore, there is non-compliance of Section 81-B(1) of the Act, which reads as under :

***“81-B. Power to evict persons from Corporation premises.—***

*(2) Before an order under sub-section (1) is made against any person, the Commissioner shall issue, in the manner hereinafter provided, a notice in writing calling upon all persons concerned to show cause why an order of eviction should not be made.*

*The notice shall,—*

*(a) specify the grounds on which the order of eviction is proposed to be made, and*

*(b) require all persons concerned, that is to say, all persons who are or may be in occupation of, or claim interest in, the Corporation premises, to show cause against the proposed order, on or before such date as is specified in the notice.*

*If such person makes an application to the Commissioner for the extension of the period specified in the notice, the Commissioner may grant the same on such terms as to payment and recovery of the amount claimed in the notice, as he deems fit.*

*Any written statement put in by any person and documents produced, in pursuance of the notice, shall be filed with the record of the case, and such person shall be entitled to*

*appear before the Commissioner by advocate, attorney or other legal practitioner.*

*The notice to be served under this sub-section shall be served in the manner provided for the service of a notice under sub-section (1); and thereupon, the notice shall be deemed to have been duly given to all persons concerned.”*

Thus, in Section 81-B(2) reads, it clears that any written statement put in by any person and documents produced, in pursuance of the notice, the said person entitled to appear before the Commissioner by advocate, attorney or other legal practitioner that means the Commissioner is required to hear the concerned person and after granting sufficient opportunity, passed appropriate order.

5. More particularly, pursuant to the dismissal of the appeal by the learned Principal District Judge, Nanded, the petitioners are regularly paying the municipal taxes and even after the year 2022, the petitioners have continued to pay taxes.

6. I have gone through the order passed by the learned Principal District Judge, Nanded. Considering the provision of Section 81-B(1) as no sufficient opportunity of hearing was given to the petitioners, I am inclined to quash and set aside the order under challenge. Hence, following order :

**ORDER:**

(a) The writ petition is partly allowed.

- (b) The order dated 02.07.2014 passed by the Municipal Commissioner and the order dated 07.10.2021 passed below Exhibit 84 by the Principal District Judge, Nanded in Regular Civil Appeal No.92/2014 are quashed and set aside.
- (c) The respondent – Municipal Corporation shall issue a fresh notice of hearing to the petitioners, calling upon them to remain present on the fixed date.
- (d) The petitioners shall remain present before the learned Municipal Commissioner on 15.12.2025.
- (e) The learned Municipal Commissioner shall hear the petitioners and pass an appropriate order in accordance with law.
- (f) The learned Municipal Commissioner shall decide the matter within a period of two (2) months from today.

7. All the points are kept open.

**[ SIDDHESHWAR S. THOMBRE ]**  
**JUDGE**

Pooja Kale/