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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 16729 OF 2024

Pravin Abasaheb Gaikwad & ors. .. Petitioner
Versus
State of Maharashtra & ors. .. Respondents

Mr Nagesh Chavan for the petitioner.
Mr A R Deolekar for the respondent.

CORAM : M.S. Sonak &
Jitendra Jain, JJ.
DATED: 3 January 2025

PC:-

1. Heard learned counsel for the parties.
2. The petitioner seeks a Writ of Mandamus, but before instituting this petition, the petitioner has not made demand for justice. The petitioner has directly instituted this petition without there being any demand for justice and consequential refusal.
3. Wade, in Administrative Law (9th Edition, Page 626) has observed that "Demand and refusal" is an imperative rule before granting a writ of mandamus. The author has referred to several English decisions on the subject. The above principle is accepted in our country. The party against whom mandamus is sought should have refused to act. In other words, generally there must be a demand and refusal as a condition precedent to the issuance of a writ of mandamus (See *Kamini Kumar v. State of West Bengal* (1972) 2 SCC 420, 426 : AIR 1972 SC 2060, 2065; *Saraswati*

Industrial Syndicate v. Union of India, (1974) 2 SCC 630, 641 -42: AIR 1975 SC 460, 468; *Amrit Lal v. Collector of Central Excise*, (1975) 4 SCC 714, 729 : AIR 1975 SC 538, 548; *State of Haryana v. Chandan Mal*, (1977) 1 SCC 340, 360 : AIR 1976 SC 1654, 1669-70).

4. Faced with the above difficulty, the learned counsel for the petitioner, based on instructions from the petitioner requests for directions that respondents should treat this petition as a representation and dispose of the same in accordance with law within time bound schedule.

5. In the peculiar facts of this case, we think that this request is reasonable. Accordingly, respondent Nos.3, 4, 7 and 8 to treat this writ petition as petitioner's representation and dispose of the same within 12 weeks from today. The concerned respondents should hear the petitioners and dispose of the petitioner's representation by speaking order.

6. All contentions of all parties are left open.

7. In case the petitioners are still aggrieved, they shall have liberty to challenge the decisions of the above respondents in accordance with law.

8. This petition is disposed of in the above terms without any order for costs.

(Jitendra Jain, J)

(M.S. Sonak, J)