



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
WRIT PETITION NO.859/2019

Vijay Ramkrushna Akhare .Vs. State of Maharashtra 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. V. B. Bhise, Advocate for petitioner.
Mr. H. R. Dhumale, A.G.P. for respondent Nos.1 to 4.

CORAM : ANIL L. PANSARE, J.
DATE : FEBRUARY 11, 2025

On 04.02.2025, following order was passed.

“Heard for some time.

The contention is that the Tahsildar has passed order imposing penalty on 18-6-2018 and while doing so, has recorded that the petitioner did not avail opportunity of hearing as he remained absent despite service of notice.

Learned counsel for the petitioner submits that notice was served on petitioner on 19-6-2018. This ground was raised before the first appellate authority viz. Sub Divisional Officer, Akot, who has not rendered any finding on the issue.

Learned Assistant Government Pleader shall place on record the copy of notice issued to the petitioner showing acknowledgment of receipt of notice.

*As regards imposing penalty by the Tahsildar on the vehicle (means of conveyance employed for transport of sand), learned counsel for the petitioner has relied upon the judgment of the Division Bench of this Court in the case of **Harihar s/o Mahadev Puri Vs. State of Maharashtra and anr. [2019(6) ALL MR 284]**.*

Learned Assistant Government Pleader shall go through the said judgment and make submissions.

Stand over to 11-2-2025.

2. In response to order dated 04.02.2025, learned A.G.P. has shown across the bar, that the notice was served on the petitioner. The issue, however, was whether the notice was served before 18.06.2018, which is the date on which the order imposing penalty was passed by the Tahsildar.

3. The grievance of the petitioner was that he was not served with copy of notice prior to passing of the order of penalty. Despite said grounds having been raised, the Sub Divisional Officer, Akot has not rendered any finding. The said mistake was carried forward by respondent No.2 – Additional Collector.

4. This aspect goes to the root of the proceeding. Therefore, it will be appropriate to remand the matter back to Sub Divisional officer, Akot to consider the said ground and pass an order thereon. The Sub Divisional Officer shall also consider the effect of judgment referred to in the order dated 04.02.2025.

4. The petition is accordingly partly allowed. Impugned order dated 22.11.2018 passed by Additional Collector, Akola in Appeal No. MNL-37/Adsul/40/2017-18, as also order dated 18.08.2018, passed by Sub Divisional Officer, Akot in R.C.No. MNL-37/Adsul/40/2017-2018, are quashed and set aside. The proceeding before Sub Divisional Officer stands restored to file. The petitioner shall appear before respondent No.3 on 06.03.2025.

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

(Anil L. Pansare, J.)