



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

WRIT PETITION NO.6252/2024

Abhiman s/o Vitthal Lambat
Vs.
The Additional Collector, Yavatmal and others

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

Court's or Judge's orders

Shri A.R. Ingole, Advocate for petitioner
Shri S.C. Joshi, AGP for respondent Nos.1 to 3

CORAM : SMT. M.S. JAWALKAR, J.
DATED : 21.03.2025

Heard learned Counsel for petitioner and learned
AGP for respondents/State.

2. It appears that the vehicle of the petitioner was seized on 16.06.2023. The petitioner deposited amount of Rs.23,415/- as per direction of Tahsildar as well as penalty of Rs.1 Lakh imposed by the Sub Divisional Officer. On depositing such amount, the tractor bearing No.MH-29-BV-9986 was released. However, it was again seized on 21.08.2024 for transporting sand in the said vehicle. The impugned order dated 17.09.2024 passed by the Tahsildar Maregaon imposed Rs.7 lakhs penalty to the petitioner. However, it is contended that before passing impugned order, no notice, no opportunity was granted to the petitioner to defend him.

3. The learned AGP submits that there is alternate remedy available to the petitioner under Section 247 of the MLR Code. The learned AGP relied on *Adarsh Panchvati*

Park Vasahat Vikas Samiti, Nagpur Vs. State of Maharashtra and others in Writ Petition No.4903/2017 and Dinesh V. Additional Collector, Yavatmal and others in Writ Petition No.1092/2025.

4. The learned AGP raised preliminary ground that the remedy is available under MLR Code, whereas in view of the fact that no opportunity of hearing was granted, the petitioner can avail remedy under Article 227 of the Constitution of India.

5. As against this, learned Counsel for petitioner relied on ***Harbanslal Sahnia and another Vs. Indian Oil Corpn. Ltd. And others (2003) 2 SCC 107***, wherein the Hon'ble Apex Court held as under:

“7. So far as the view taken by the High Court that the remedy by way of recourse to arbitration clause was available to the appellants and therefore the writ petition filed by the appellants was liable to be dismissed is concerned, suffice it to observe that the rule of exclusion of writ jurisdiction by availability of an alternative remedy is a rule of discretion and not one of compulsion. In an appropriate case, in spite of availability of the alternative remedy, the High Court may still exercise its writ jurisdiction in at least three contingencies: (i) where the writ petition seeks enforcement of any of the fundamental rights; (ii) where there is failure of principles of natural justice; or (iii) where the orders or proceedings are wholly without jurisdiction or the vires of an Act is challenged. (See Whirlpool Corpn. v. Registrar of Trade Marks¹.) The present case attracts applicability of the first two contingencies. Moreover, as noted, the

petitioners' dealership, which is their bread and butter, came to be terminated for an irrelevant and non-existent cause. In such circumstances, we feel that the appellants should have been allowed relief by the High Court itself instead of driving them to the need of initiating arbitration proceedings."

6. Admittedly, there is no notice given before passing the impugned order to the petitioner herein which amounts to violation of principle of natural justice. In view of this law position, the petition cannot be said to be not maintainable.

7. Learned Counsel for petitioner relied on ***Horli Sukar Sao Vs. The Additional Collector, Chandrapur and ors. in Writ Petition No.585/2025***, wherein this Court remitted matter back on the ground that there is no notice, no opportunity of hearing granted to the petitioner. Admittedly, the order does not reflect that any such notice before imposing penalty of Rs.7 Lakhs is granted by the Tahsildar to the petitioner. As such, order passed by the Tahsildar is against the principles of natural justice. At any rate, before passing of impugned order, the Tahsildar ought to have granted opportunity of hearing to the petitioner. As such, I proceed to pass the following order:

ORDER

- i) The Writ Petition is allowed.
- ii) The impugned order/communication dated 17.09.2024 issued by the learned Tahsildar, Maregaon, is hereby quashed and set aside.

iii) The Tahsildar is directed to conduct inquiry afresh in accordance with law.

iv) The petitioner to appear before the Tahsildar on 27.03.2025.

The Writ Petition is disposed of in above terms. No order as to the costs.

JUDGE

R.S. Sahare