

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1848 OF 2024

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Shri. Suresh Shankar Waman And Anr.

...Petitioner

Versus

State of Maharashtra Thru Prin. Secretary, Revenue
And Forest Dept. And Ors.

...Respondents

Mr. Mohan Gawade, *for the Petitioner.*

Ms. Vrishali Raje, *AGP, for the Respondent-State.*

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : APRIL 15, 2026

ORDER :

1. A further affidavit dated February 13, 2026, was filed on behalf of the State, this time by the incumbent and current Sub-Divisional Officer, Junnar Ambegaon Division, Manchar, Pune District. This affidavit again explains the concept of Deputy Collector being a **cadre** and Sub-Divisional Officer being a **post**, but falls clearly short of a simple factual confirmation as to whether the incumbent SDO who passed the Impugned Order was of the rank or “cadre” of Deputy Collector or Assistant Collector.

2. After this conceptual explanation, in Exhibit 'D', a notification has been attached to show that a predecessor of the author of the Impugned Order (and not the author himself) was of the rank of Deputy Collector and had been posted as an SDO. This still does not answer the question as to whether the author of the Impugned Order fell within the ambit of a Deputy Collector or Assistant Collector, as required within the scope of delegation under Section 23(2A) of the Mamlatdar's Courts Act, 1906.

3. In these circumstances, since the cadre of a gazette government servant is not being demonstrated despite best efforts of the Learned AGP, the stance of the State does not inspire confidence. It is only appropriate to put an end to the controversy by setting aside the Impugned Order by way of remand, owing to the inability of the State to demonstrate that the author of the Impugned Order was a permitted delegate of the revisional power. A fresh delegation in compliance with law shall now be effected afresh and the revision application shall be considered afresh. In this manner the issue of *coram non judice* is put to rest once and for all.

4. Nothing contained in this order shall be construed as an expression of opinion on merits. It may only be remarked that it is

extraordinary that a government servant's cadre is not being demonstrated, despite multiple attempts by the Learned AGP to enable the State to file a clear affidavit. This leads the Court to draw an adverse inference that the delegation has potentially been problematic.

5. However, without expressing an opinion on the merits of the matter, the Impugned Order is set aside and a fresh consideration of the Revision Application, as filed, shall be effected by the current incumbent without being influenced by whatever has transpired earlier.

6. The Writ Petition is finally ***disposed of***.

7. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]