IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9273 OF 2014

1] Manubai w/o Kondiram Jawale,
Age: 55 years, Occu: Agril.,

2] Gokul s/o Vishnu Landge,
Age: 50 years, Occu: Agril.

3] Vitthal s/o Bhaskar Jawale,
Age: 30 years, Occu: Agril,

All R/o Sonwadi, Tq. Kopargaon,
Dist. Ahmednagar ….PETITIONERS

VERSUS

1] The State of Maharashtra,
Through Minister/Secretary,
Revenue Department,
Maharashtra State, Mantralaya,
Mumbai-32

2] The Collector, Ahmednagar

3] The Tahsildar,
Tahsil Office, Kopargaon,
Dist. Ahmednagar

4] The Deputy Superintendent of Land Revenue,
Kopargaon, Dist. Ahmednagar

5] Namdeo s/o Bhaguji Jayapatre,
Age: 60 years, Occu: Agril,

6] Bhakar s/o Bhaguji Jayapatre,
Age: 58 years, Occu: Agril.,

7] Mandabai w/o Arjun Bhosale
Age: 35 years, Occu: Agril.,

8] Yamunabai w/o Gokul Landge,
Age: 40 years, Occu: Agril.

9] Appasaheb s/o Gokul Landge,
Age: 30 years, Occu: Agril,

All R/o. Sonwadi, Tq. Kopargaon,
Dist. Ahmednagar ….RESPONDENTS

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Mr P. C. Mayure, Advocate for petitioners
Mr S. K. Shirse, A.G.P. for respondent Nos.1 to 4
Mr C. K. Shinde, Advocate for respondent No.7

CORAM : PRAFULLA S. KHUBALKAR, J.

RESERVED ON : 17th June, 2025

PRONOUNCED ON : 17th July, 2025

JUDGMENT :-

1. Heard. Rule. Rule made returnable forthwith. Heard finally by consent of the parties.

2. Heard Advocate Mr P. C. Mayure, learned counsel for the petitioners, Advocate Mr S. K. Shirse, learned Assistant Government Pleader for respondent Nos.1 to 4 and Advocate Mr C. K. Shinde, learned counsel for respondent No.7.

3. This petition takes exception to the order dated 27/08/2014, passed by the Hon’ble Minister (Revenue), Maharashtra

State, in Appeal No.2014/P.K.131/J-6, by which, the appeal filed by respondent Nos.5 to 7 is allowed by setting aside the orders passed by the Deputy Director of Land Records, Nashik and other subordinate authority.

4. The main thrust of the arguments of the petitioners is violation of principles of natural justice. The petitioners primary contention is that the impugned order is a non-speaking order being unreasoned and having been passed without affording reasonable opportunity of hearing to the petitioner and it is an instance where the principles of natural justice are given complete go bye. In the backdrop of the legal position about settled principles of natural justice, the legality of the impugned order is being tested in this petition, which is filed under Article 227 of the Constitution of India.

5. Factual matrix leading to the instant petition is succinctly put herein below :-

(i) As regards the land situated at village Chande-Kasare, Taluka Kopargaon, Dist. Ahmednagar, a mutation entry No.4444 was sanctioned on 12/06/1963 by the Survey Mamaledar, Nashik, creating a new Survey No.115/296/3. This mutation entry was recorded by consent of the original owner Shri

Bhaguji Chapaji Jaypatre and the land came to be mutated in the name of petitioner No.1/ Manubai Kondiram Jawale.

(ii) After about 40 years, in the year 2012, the respondent No.5 to 7 challenged the entry No.4444 before the District Superintendent of Land Records, Ahmednagar, vide Appeal No.30/2011.

(iii) On 30/04/2012, this appeal came to be dismissed by giving due consideration to the consent given by the original owner Bhaguji Chapaji Jayapatre in Form no. 4 and also by considering inordinate delay of 40 years about which no explanation was offered .

(iv) Feeling aggrieved by this order, respondent Nos.5 to 7 filed further appeal before the Deputy Director of Land Records, Nashik, which came to be dismissed by order dated 28/02/2014, thereby confirming the order passed by the District Superintendent of Land Records, and consequently, confirming entry No.4444 which was sanctioned in the year 1963. Pertinent to note that the Deputy Director had categorically observed that Bhaguji Chapaji Jayapatre had

given consent on Hissa Form No.4 and accordingly, Survey No.115/296/3 was recorded as 8 Acre 32 Are in the name of the petitioners.

(v) Feeling aggrieved by the order passed by the Deputy Director of Land Records, respondent Nos.5 to 7 filed appeal before the Hon'ble Minister of Revenue, Maharashtra State, which came to be allowed by order dated 27/08/2014, consequently, canceling the mutation entry No.4444, which was sanctioned in the name of the petitioners in the year 1963.

(vi) The petitioners have raised challenge to this order by way of the instant petition under Article 227 of the Constitution of India.

6. Advocate P. C. Mayure, learned counsel for the petitioners strenuously submitted that the impugned order passed by the Hon'ble Minister is illegal and unconstitutional being violative of principles of natural justice. He submitted that the impugned order only refers to the submissions advanced by the appellants in the appeal (respondent Nos.5 to 7 herein) and straightway records conclusion about allowing the appeal. Another limb of his arguments is absence of reasonable

notice upon the petitioners, again resulting into violation of principles of natural justice. He submitted that the impugned order reversing the orders passed by the District Superintendent of Land Records and Deputy Director of Land Records is detrimental to the rights of the petitioners, in whose favour mutation entry was sanctioned in the year 1963. He submitted that, as a consequence of the impugned order, the petitioners ownership rights over their own land has come under cloud and therefore alleged that the impugned order amounts to miscarriage of justice. He submitted that the impugned order is liable to be set aside on this count alone.

7. To buttress his submissions Advocate Mayure, learned counsel for the petitioners relied upon the judgment in the matter of **Ravi Yashwant Bhoir Vs. District Collector, Raigad and others, (2012) 4 SCC 407** and **Kranti Associates Private Ltd. and another Vs. Masood Ahmed Khan and others, (2010) 9 SCC 496,** and submitted that the position of law is well settled that an unreasoned order passed by an authority exercising quasi-judicial powers without affording reasonable opportunity of hearing is unsustainable in law.

8. The position of law dealing with various facets of the principles of natural justice is fairly settled and by a series of judgments it is

clarified that the person who is likely to be adversely affected by the action of the authorities should be given a notice to show cause thereof and granted an opportunity of hearing and further that the orders so passed by the authorities should contain reasons for arriving at any conclusion reflecting proper application of mind. Violation of either of these principles could in the given facts and circumstances of the case vitiate the order itself.

9. Advocate Mr S. K. Shirse, learned Assistant Government Pleader appearing for respondent Nos.1 to 4, by referring to the affidavit-in-reply dated 09/04/2025, submitted that entry No.4444 was required to be cancelled in view of the withdrawal of the consolidation scheme of the village Chande-Kasare. Pertinently, as regards the primary contentions raised by the petitioners alleging violation of principles of natural justice, the affidavit-in-reply is silent. Even during the course of arguments, learned A.G.P. submitted that the impugned order refers to the submissions advanced by the appellants as stated in paragraph Nos.1 to 4 of the order and the reasons for arriving at the conclusion thought not explicit are to be understood as implicit in those submissions.

10. Advocate Mr C. K. Shinde, learned counsel for respondent No.7 strongly opposed the petition, mainly by pointing out the merits of the controversy. By referring to the affidavit-in-reply dated 08/03/2022, he submitted that the cancellation of entry No.4444 was warranted in view of the fact that the consolidation scheme was not implemented in village Chande-Kasare and therefore the mutation entry relatable to the consolidation scheme was liable to be cancelled. By referring to the letter dated 04/06/2013, issued by the Deputy Superintendent of Land Records, Kopargaon and by inviting attention to a Notification dated 17/03/2025, issued by the Deputy Director of Land Records, Nashik, he vehemently submitted that the consolidation scheme with respect of the village Chande-Kasare was withdrawn by the Government and the same was not finalized. He thus submitted that the entry No.4444 of the year 1963 was necessarily required to be cancelled and thus tried to justify the impugned order. As regards the petitioner's arguments about violation of principles of natural justice he submitted that the notice was duly served upon both parties intimating the dates of hearing and also submitted that mentioning brief reasons also amounts to compliance with natural justice.

11. In the light of above mentioned submissions, rival contentions now fall for my consideration.

12. It is pertinent to note that the controversy although arose with respect to challenge to the mutation entry No.4444, which was sanctioned in favour of the petitioners in the year 1963, however, the main grounds of challenge in this petition are about violation of principles of natural justice. The petitioners primary contention is that the impugned order is illegal being a non-speaking order. A perusal of the impugned order clearly shows that, after referring to the challenge raised by the appellants in the appeal (respondent Nos.5 to 7 herein), the contentions advanced by them are stated in paragraph Nos.1 to 4 and thereafter, straightway the inferences are recorded in one sentence, expressing thereby that, having regard to the contentions, the entry No.4444 deserves to be canceled. It is, thus seen that, no reasons are mentioned for arriving at the conclusions. There is no consideration of the rival contentions or any comments about the reasons which were mentioned in the orders passed by the District Superintendent of Land Records and Deputy Director of Land Records, while reversing their orders. There is no consideration of the factual issues, on the basis of which, the authorities have earlier elaborately decided the controversy. As such, neither there is any consideration of the actual controversy involved, nor there is mention of submissions of the respondents (petitioners herein), nor the reasons for arriving at conclusions. Thus,

the impugned order is clearly a non-speaking order. It is crucial to note in this regard that the impugned order overturns the two orders passed by the authorities viz. the District Superintendent of Land Records and Deputy Director of Land Records, who have passed well reasoned orders dealing with the controversy. Further, the crucial issue about challenge to the mutation entry after unexplained delay of about 40 years was required to be considered in view of the prejudice likely to be caused to the petitioners herein. The impugned order sans consideration of the actual controversy and reasons for the conclusions depicts violation of principles of natural justice.

13. The impugned order is an instance of an order determining the rights of the parties without mentioning any reasons at all. It depicts an approach adopted by quasi judicial authorities to pass orders either by way of a routine formality or by consciously dodging the real controversy. The impugned order is an instance of an order which is passed by simply referring to the submissions of the parties and then straightway mentioning the conclusions. Absence of reasons makes it impossible for the parties to know as to what weighed in the mind of the authority and it becomes impossible for the appellate authority to discern the reasoning. This kind of lack of transparency ultimately

leads to multiplicity of proceedings shattering the faith of the contesting litigants. Such an order, on its face, is arbitrary and absolutely unsustainable.

14. Another forceful submission advanced on behalf of the petitioners alleging violation of principles of natural justice is about absence of reasonable notice about the proceedings. The petitioners have vehemently submitted that the notice of the proceedings before the Hon'ble Minister was served upon them on 11/08/2014, which mentioned that the matter was fixed before the Hon'ble Minister at Mumbai on 12/08/2014 i.e. on the next day. By inviting Court's attention to the notice dated 07/08/2014, which is filed at Exhibit 'D' with the petition, learned counsel for the petitioners has submitted that this notice of hearing which was served upon the petitioners who are the residents of Kopargaon, Dist. Ahmednagar, giving intimation about the next date of hearing to be conducted at Mumbai on 12/08/2024, cannot at all be considered to be a reasonable notice. It is submitted that the notice appears to have been issued only by way of formality and it was impossible for the petitioners who are residents of Kopargaon, Dist. Ahmednagar to attend the matter for hearing at Mumbai before the Hon'ble Minister on the next date. While refuting

this submission learned counsels for the respondents have tried to show that, although the proceedings were kept for hearing before the Hon'ble Minister on 12/08/2014, however, the same were adjourned and the final order came to be passed on 27/08/2014. To highlight this submission, learned counsel for respondent No.7 has placed on record a copy of the order sheet of the proceedings before the Hon'ble Minister, which he had received under the Right to Information Act, 2005. On the basis of the order sheet of the proceedings, he has submitted that the petitioners had received the notices on 11/08/2014 with respect to the hearing which was scheduled on 12/08/2014, however, on 12/08/2014, the hearing was adjourned to 19/08/2014 (i.e. after seven days) and the case was closed for orders on 19/08/2014. He therefore submitted that the hearing was not held on the next day. A careful perusal of the order sheet submitted by respondent No.7 on record shows the manner in which the proceedings were conducted before the Hon'ble Minister. Pertinent to note, the orders sheet of earlier dates shows that the matter was fixed after a period of five days from the date of notice, as can be seen from notice dated 10-07-2024 for scheduled hearing on 15-07-2024, further the notice dated 07-08-2024 for scheduled hearing on 12-08-2024. As such, it is clear that the notices of hearing at Mumbai were served upon the petitioners

who are residents of Kopargaon, Dist. Ahmednagar, only five days prior to date of hearing. Thus excluding the date on which the notice is served, the person gets only three days to reach at Mumbai. Therefore the petitioners contention that this kind of short notice is not a reasonable notice, needs appreciation. Pertinently, it is nobody's case that the matter was in the category of 'time bound matters' and it required hearing by giving very short dates. In view of the controversy involved in the matter, raising challenge to the mutation entry of the year 1963, after a period of 40 years, and challenge to the orders passed by the District Superintendent of Land Records and Deputy Director of Land Records, the notice granting three days time cannot be considered to be a reasonable notice. An opportunity of hearing necessarily means affording reasonable opportunity of hearing by giving reasonable notice to the parties. The conduct of the proceeding in such a hasty manner, in absence of any kind of mandate for early decision of the proceeding, creates a doubt about compliance of fair procedure. In the light of the order sheet referred above, demonstrating the manner in which the proceedings were conducted, the contentions of the petitioners that they were not afforded reasonable opportunity of hearing, stands fortified.

15. The position of law regarding the finer aspects of the principles of natural justice is reiterated in several judgments of the Hon'ble Supreme Court and reference can be made to the judgment in the matter of **Assistant Commissioner, Commercial Tax Department, Works Contract and Leasing, Kota Vs. Shukla and Brothers, (2010) 4 SCC 785**, of which relevant paragraph Nos.12 to 14 are reproduced below:

> "12. In exercise of the power of judicial review, the concept of reasoned orders/actions has been enforced equally by the foreign courts as by the courts in India. The administrative authority and tribunals are obliged to give reasons, absence whereof could render the order liable to judicial chastise. Thus, it will not be far from absolute principle of law that the Courts should record reasons for its conclusions to enable the appellate or higher Courts to exercise their jurisdiction appropriately and in accordance with law. It is the reasoning alone, that can enable a higher or an appellate court to appreciate the controversy in issue in its correct perspective and to hold whether the reasoning recorded by the Court whose order is impugned, is sustainable in law and whether it has adopted the correct legal approach. To sub-serve the purpose of justice delivery system, therefore, it is essential that the Courts should record reasons for its conclusions, whether disposing of the case at admission stage or after regular hearing.
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> 13. At the cost of repetition, we may notice, that this Court has consistently taken the view that recording of reasons is an essential feature of dispensation of justice. A litigant who approaches the Court with any grievance in accordance with law is entitled to know the reasons for grant or rejection of his prayer. Reasons are the soul of orders. Non-recording of reasons

could lead to dual infirmities; firstly, it may cause prejudice to the affected party and secondly, more particularly, hamper the proper administration of justice. These principles are not only applicable to administrative or executive actions, but they apply with equal force and, in fact, with a greater degree of precision to judicial pronouncements. A judgment without reasons causes prejudice to the person against whom it is pronounced, as that litigant is unable to know the ground which weighed with the Court in rejecting his claim and also causes impediments in his taking adequate and appropriate grounds before the higher Court in the event of challenge to that judgment. Now, we may refer to certain judgments of this Court as well as of the High Courts which have taken this view.

14. The principle of natural justice has twin ingredients; firstly, the person who is likely to be adversely affected by the action of the authorities should be given notice to show cause thereof and granted an opportunity of hearing and secondly, the orders so passed by the authorities should give reason for arriving at any conclusion showing proper application of mind. Violation of either of them could in the given facts and circumstances of the case, vitiate the order itself. Such rule being applicable to the administrative authorities certainly requires that the judgment of the Court should meet with this requirement with higher degree of satisfaction. The order of an administrative authority may not provide reasons like a judgment but the order must be supported by the reasons of rationality. The distinction between passing of an order by an administrative or quasi-judicial authority has practically extinguished and both are required to pass reasoned orders.

16. Further, the position of law is reflected in the recent judgment of the Hon'ble Supreme Court in the matter of **State Project Director, U.P. Education for All Project Board and others Vs. Saroj Maurya**

and others, 2024 SCC OnLine SC 2602, which again reiterates the necessity of recording reasons in orders passed by the quasi-judicial authorities.

17. While dealing with the rival contentions in this regard, it is profitable to refer to the judgment of the Hon'ble Supreme Court,on which reliance is also placed by the counsel for petitioner, in the matter of **Kranti Associates Private Ltd. and another Vs. Masood Ahmed Khan and others, (2010) 9 SCC 496,** in which after considering the series of earlier judgments, the Hon'ble Supreme Court has summarized its conclusion in paragraph Nos. 47, which is extracted hereinbelow :-

"47.Summarizing the above discussion, this Court holds:

(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior Courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the life blood of judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a Judge or a quasi-judicial authority is not candid enough about his/her decision making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or `rubber-stamp reasons' is not to be equated with a valid decision making process.

(m) ……...”.

18. By harping on the contentions about violation of principles of natural justice rather than contesting on merits, learned counsel for the petitioners submitted that the instant matter needs to be remanded to the Hon'ble Minister for reconsideration and a fresh decision on merits, with a direction for expeditious decision. Advocate Shinde, learned counsel for respondent No.7 even opposed this submission by stating that, since the consolidation scheme itself is withdrawn, and the factual situation warrants cancellation of the mutation entry, remand of the matter for fresh decision will be an exercise in futility.

19. In this regard, it has to be noted that the effect of withdrawal of consolidation scheme of village Chande-Kasare may have a bearing upon the controversy about continuing or deleting the mutation entry No.4444, however, the issue ultimately involves challenge to the rights of the petitioners with respect to the land in question and therefore, it needs to be decided by affording reasonable opportunity of hearing to the petitioners. The contentions raised by respective parties about challenge to the mutation entry No.4444 can be appropriately considered by the Hon'ble Minister after giving due consideration to the factual and legal aspects and by affording due notice and appropriate opportunity of hearing to both the parties.

Having regard to all the rival contentions, I am of the considered opinion that this is a fit case in which the matter needs to be remanded to the Hon'ble Minister for deciding the appeal afresh by complying the principles of natural justice. It is clarified that in view of the glaring issues about non-speaking order and absence of reasonable notice, the instant petition is decided on these issues only. Since the counsel for petitioners raised the grounds of violation of principles of natural justice as primary contentions, there was no need to delve into the merits of the alleged controversy about challenge to mutation entry no. 4444 and need for its cancellation on withdrawal of the consolidation scheme.

20. In the light of above mentioned factual and legal aspects, the order dated 27/08/2014 passed by the Hon'ble Minister(Revenue) in appeal No.2014/P.K.131/J-6 is quashed and set aside. The matter is remanded to the Hon'ble Minister for fresh decision. It is directed that the appeal be decided afresh by affording reasonable opportunity of hearing to both the parties, preferably within a period of three months from the date of receipt of this order.

21. Writ Petition is partly allowed.

22. Rule is made absolute in above terms.

(PRAFULLA S. KHUBALKAR, J.)

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