IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO.6 OF 2026

Shri Suryakant Gulbarao Yewale	)
Working as Tahasildar, Tal. Pune City	)
(now under suspension),	)
R/o. 18, Government Quarters No.F/3,	)
Queens Garden, Pune 1	) **....Applicant**

Versus

The State of Maharashtra,	)
Through Additional Chief Secretary,	)
Revenue & Forest Department,	)
(Revenue), having office at Mantralaya,	)
Mumbai 400 032	)**....Respondent**

Shri Arvind V. Bandiwadekar, the learned advocate for the applicant.

Ms. S.P. Manchekar, the learned Chief Presenting Officer for the respondent.

CORAM : **Justice Mangesh S. Patil, Hon'ble Chairman**
Shri Debashish Chakrabarty, Hon'ble Member (A)

DATE : **14.01.2026**

PER : **Justice Mangesh S. Patil, Hon'ble Chairman**

J U D G M E N T

Heard the learned advocate for the applicant as also the learned Chief Presenting Officer.

2. This is an unprecedented matter wherein our intervention has been solicited purportedly in exercise of the powers under Articles 226 of the Constitution of India in a very exceptional

circumstances. We have been called upon to undertake an exercise of examining legality and sustainability of impugned show cause notice dated 11.12.2025 (Exhibit A) served upon the applicant, who is a Tahsildar under suspension, calling upon him to explain why he should not be dismissed in exercise of the powers under proviso (b) of Clause (2) of Article 311 of the Constitution of India, calling upon him to furnish the explanation within 15 days.

3. The learned advocate Mr. Bandiwadekar would strenuously take us through the entire show cause notice, simultaneously attempts to meet each of the allegations being levelled against the applicant, to substantiate his submission that none of the allegations is sustainable, much less, can justify the impending action threatened by the State. He would emphasize that no such show cause notice is contemplated and can be insisted for in the light of decision of the matter of ***Union of India & Ors. Versus Tulsiram Patel : (1985) 3 SCC 398.*** The action of the State in issuing show cause notice is grossly illegal.

4. Mr. Bandiwadekar would further submit that the powers under Article 226 of the Constitution of India can be exercised in such matters where the show cause notice abundantly makes it clear that the authority i.e. the State in this case, has made up its mind to exercise the extra ordinary powers under proviso (b) of Clause (2) of Article 311 of the Constitution. To buttress his submissions he would cite the decision of the Supreme Court in ***Siemens Ltd. Versus State of Maharashtra & Ors : (2006) 12 Supreme Court Cases 33.***

5. Additionally, learned advocate Mr. Bandiwadekar would submit that in fact the applicant has been put under suspension under Rule 4(1)(a) of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 by the order dated 06.11.2025 in contemplation of a disciplinary enquiry for alleged misconduct in the matter of passing order by the applicant in the purported exercise of the statutory powers under the Maharashtra Land Revenue Code, 1966 which is additionally being resorted to and forms a part of allegations in the impugned show cause notice. He would submit that the State is uncertain as to the action to be taken against the applicant. A disciplinary enquiry under the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 and the powers under proviso (b) of Clause (2) of Article 311 of the Constitution cannot go hand in hand.

6. Mr. Bandiwadekar would submit that the applicant has been called upon to explain without conceding to his request to furnish documents. If he is expected to respond to the show cause notice, the principles of natural justice would demand that his request for furnishing the documents is accepted.

7. Mr. Bandiwadekar would also cite the judgment of the ***Bombay High Court Bench at Aurangabad in Criminal Application Nos.4924 of 2010 & 4925 of 2010, Venkat Limbaji Koli Versus State of Maharashtra & Anr. AND Pandit Yadavrao Misal & Ors Versus State of Maharashtra & Ors., dated 13.04.2011***, wherein it has been held that the Revenue Authorities exercising *quasi* judicial powers are entitled to the protection under Section 3 of the Judges (Protection) Act 1985.

8. The learned C.P.O. would submit that the applicant was suspended at earlier point of time contemplating an action in respect of alleged misconduct in the matter of passing of order under the Maharashtra Land Revenue Code, 1966. It was subsequently found that he indulged in some serious misconduct at a later point of time enabling the State to invoke the powers under proviso (b) of Clause (2) of Article 311 of the Constitution. She would submit that the period extended in the show cause notice is already over. The applicant has not furnished any explanation and the Tribunal may not exercise the powers under Article 226 of the Constitution to intervene at this juncture.

9. We have carefully considered the rival submissions and perused the papers.

10. Bearing in mind the principle laid down in ***Siemens Ltd (supra),*** the submission of Mr. Bandiwadekar appear unassailable at the first blush, in as much as the wording of the show cause notice demonstrates intention of the State to exercise the power under Article 311 (2) provision (b).

11. However, one cannot lose sight of the trite legal position laid down in the ***Tulsiram Patel (supra)*** that no such show cause notice or for that matter the principles of natural justice are *sine qua non* for exercising the powers under proviso (b) of Clause (2) of Article 311 of the Constitution. Though Mr. Bandiwadekar sought to rely upon this decision to substantiate his arguments that when no such show cause notice is contemplated in law that fact itself will go to the root of the show cause notice, the fallacy in this submission/ stand lies on the fact that the ratio is being sought to be relied upon in a converse situation. What has been laid down is

that no show cause notice is contemplated under that provision. It is an action which must be *ex parte.* It is not necessary to extend an opportunity of hearing. This ratio cannot be resorted to agitate and argue that the principles of natural justice cannot be resorted to by the State at all, before exercising that power.

12. Conversely, Article 311 of the Constitution nowhere lays down that no such show cause notice at all should be given by the State. Though, even if it is unnecessary and was not the requirement of law to issue the impugned show cause notice, that will not go to the root of the jurisdiction of the State in the matter of powers under proviso (b) of Clause (2) of Article 311 of the Constitution.

13. In our considered view it is, indeed, obnoxious for the applicant to question the legality of the show cause notice served upon him in contemplation of action under proviso (b) of Clause (2) of Article 311 of the Constitution and invoke the jurisdiction of the Tribunal under Article 226 of the Constitution. We, therefore, see no illegality in the State issuing the impugned show cause notice.

14. There is one more reason for us to not to exercise the discretionary powers under Article 226 of the Constitution of India. If we decide to undertake scrutiny regarding sustainability of the notice, it would tantamount to circuitously prejudging the possible action under proviso (b) of Clause (2) of Article 311 of the Constitution which may or may not fall through. We cannot undertake a scrutiny beforehand to reach a conclusion as to whether the possible grounds for exercise of the powers are sufficient or otherwise, sustainable or not. It is the constitutional and extra ordinary power vesting in the State and unless that is exercised no enquiry can be conducted, which could have some

ramifications in the matter of exercising of that power. Precisely for this reason, we feel it inappropriate to entertain the original application and expose a possible action which may or may not happen, to a judicial scrutiny.

15. Certainly it was unnecessary for the State to have issued the show cause notice, but that will not give rise to any cause of action to the applicant to approach the Tribunal under Section 19 of the Administrative Tribunals Act, 1985, and seek to invoke powers under Article 226 of the Constitution.

16. We, therefore, are of the firm view that his is not an appropriate case wherein the powers under Article 226 of the Constitution can be invoked.

17. Perhaps, contemplating such a possibility, Mr. Bandiwadekar would submit that at least the State may be directed to co-operate and furnish the documents to the applicant so that he can respond to the show cause notice and further requests that operation of the order, if it was to be passed under proviso (b) of Clause (2) of Article 311 of the Constitution, be stayed for a reasonable time for the applicant to resort to the judicial remedies.

18. In our considered view, even such a request by the applicant cannot be conceded to. The powers under Article 226 of the Constitution cannot be exercised to stall some impending action merely on the basis of hypothesis, at least in the peculiar fact and circumstances obtaining in hand.

19. For the reasons recorded hereinabove, we consciously refrain from examining the other aspects of the matter argued by the learned advocate Mr. Bandiwadekar.

20. The original application is dismissed in *limine.*

SD/-

(Debashish Chakrabarty)
Member (A)
14.01.2026

SD/-

(Mangesh S. Patil, J.)
Chairman
14.01.2026

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