

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 2993 OF 2005

Kalyan S/o Ganpat Ingale
(Gram Panchayat Aaghi)

.. Petitioner

Versus

The State of Maharashtra and another .. Respondents

Shri S. B. Bhapkar, Advocate for the Petitioner.

Shri S. G. Sangle, A.G.P. for Respondents/State.

**CORAM : S. V. GANGAPURWALA AND
A. I. S. CHEEMA, JJ.**

DATE : 26TH MARCH, 2015.

PER COURT :

. Mr. Bhapkar, the learned counsel for the petitioner submits that, the contractors to whom permission is given to excavate the sand are excavating more than the allotted quota. At the time of filing of petition 558.17 bras of sand was excavated, when only 150 bras of sand was permissible. The respondent authorities have not taken any action, however, permitted the contractors to excavate more sand. Because of excavation of such an excess sand ecological and environmental problems are created.

2. Even Gram Panchayat has passed resolutions of not allowing persons to excavate the sand considering the position.

There is shortage of sand storage in the river bed of river Sina within the limits of village Aaghi. The respondents be directed in not auctioning the said spot for excavation of sand. The authorities have not even taken steps to visit and inspect the spot of river Sina to find out truthfulness of the representations given by the villagers.

3. Mr. Sangle, the learned Assistant Government Pleader submits that, after considering the report of the geological department, the auction of the sand spot is conducted and authorities monitor the excavation of sand and did not allow the contractors to excavate more sand.

4. We have considered the submissions canvassed by learned counsel for respective parties.

5. The allotment of sand spot for excavation has to be done after getting the report from the geological department and complying necessary conditions as are laid down under the Mines and Minerals Act, Rules and Government Resolutions. The sand spot cannot be auctioned unless all compliances as are required under various statutes, laws are made and the surveys conducted by the geological department. The authorities are expected to keep a vigilance on such excavations. No doubt, excess excavation of sand would result in ecological and environmental problems.

The authorities shall consider all these aspects while allotting sand spot for excavation.

6. It has been stated in the affidavit that the authorities inspect, they consider the survey report and then only permit the lifting of sand. It has also been stated in the affidavit that, after October 2004 the contractors are not lifting the sand as the villagers have prohibited to do.

7. That was the position ten years back. In case sand spots are to be auctioned, the Collector shall comply with the provisions of the Mines and Minerals Act and Rules, so also consider the survey reports of geological department and see to it that sand spots are not auctioned for excavation of more sand than permissible as per the report of the geological department and the relevant Act and Rules. The writ petition accordingly is disposed of. Rule disposed of. No costs.

[A. I. S. CHEEMA, J.]

[S. V. GANGAPURWALA, J.]

bsb/March 15