

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1934 OF 2015

KISHOR SHAMRAO BANSODE

PETITIONER

VERSUS

THE DIVISIONAL COMMISSIONER, NASHIK
AND OTHERS

RESPONDENTS

Mr.B.V.Wagh, Advocate for the petitioner.

Mr.V.G.Shelke, AGP for the respondents.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 23/02/2015

PER COURT :

1. The petitioner claims to be constructing his own house property at Bhamathan, Tal.Shrirampur, Dist.Ahmednagar. Construction is of about 4 rooms as a residential house. The petitioner claims to have purchased 10 brass of sand through auction purchase between 2007-2012 depending upon his financial strength.

2. It was alleged by the respondent authorities that the petitioner was illegally hoarding sand (illegal accumulation of sand). Penalty of Rs.1,82,025/- was imposed upon him for having unauthorizedly accumulated the said sand. By order dated 28/11/2014, the Additional Collector, Ahmednagar rejected second RTS Appeal No.65/2014.

3. By the impugned order dated 22/12/2014, the Additional Divisional Commissioner, Nasik granted interim protection to the petitioner in Gaun Khaniz /Revision/27/2014 on the condition that the petitioner deposits an amount of Rs.91,000/- (Rs.Ninety one thousand only)

4. Submission is that the petitioner is a poor person and does not have funds even to carry forward his construction. His construction activity commenced few years ago and the house still remains incomplete on account of paucity of funds. It is, therefore, stated that he does not have enough money to comply with the condition imposed in the impugned order.

5. It is reiterated that the petitioner is neither dealing in business of selling sand nor has he attempted to use the sand for any other purpose. It is further stated that the said sand was only meant for the construction of his house and the same has now been confiscated by the respondents.

6. I have heard the learned AGP on behalf of the respondents. Contention is that the revision proceeding is pending before the Revisional Authority. Submissions of the petitioner would be

considered and the revision petition would be decided on its own merits. An equitable order has been passed and as such no interference is called for.

7. Having heard the learned Advocates for the respective sides, considering the background of the petitioner and the facts situation, I find it appropriate to allow this petition partly and scale down the amount to be deposited as per the impugned order.

8. In the light of the above, the impugned order is modified to the extent of directing the petitioner to deposit an amount of Rs.45,000/- (Rs.Forty five thousand only) with the Revisional Authority within a period of 4 (four) weeks from today. Respondent No.1 / Revisional Authority shall consider the contentions of the petitioner with due circumspection and decide the revision petition accordingly. The petitioner is at liberty to file written submissions in support of his revision petition.

9. With the above directions, the petition is partly allowed.

(RAVINDRA V. GHUGE, J.)