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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELATE JURISDICTION  
WRIT PETITION NO.1376 OF 2015 WITH  
CIVIL APPLICATION NO.517 OF 2015

Virdhaval Krushnarao Jagdale ...Petitioner  
vs.  
The State of Maharashtra & Ors. ...Respondents

ALONG WITH  
WRIT PETITION NO.1377 OF 2015  
WITH  
CIVIL APPLICATION NO.518 OF 2015

Sanjay Sharadrao Dhamdhare ...Petitioner  
vs.  
The State of Maharashtra & Ors. ...Respondents

Mr.Dhanraj Patil for the petitioner in both  
petitions  
Mr.A.B.Vagyani, GP a/w Ms M.P.Thakur, AGP for the  
applicant in CAW 517/2015 and for the respondent in  
WP 1376/2015

CORAM : A.S.OKA, &  
A.K.MENON, JJ.  
DATE : MARCH 2, 2015

P.C.:

1 Considering the narrow controversy involved, we have forthwith taken up these two petitions for final disposal. In Writ Petition No.1376 of 2015, the petitioner is seeking implementation of the order dated 12<sup>th</sup> September 2014 passed by the Hon'ble Minister for State of Revenue and Rehabilitation departments of the State. By the said order, the Hon'ble Minister partly allowed the application made by the petitioner and directed that the petitioner shall be permitted to excavate sand of 4881 brass

quantity from the Spot No.2 at Village Kangaon No.2, Taluka Daund, District Pune. On the basis of the said order, the petitioner made application to the District Collector, Pune for grant of permission. The petitioner has approached this Court for writ of mandamus under Article 226 of the Constitution of India for implementation of the said order.

2 When this petition was called out on 10<sup>th</sup> February 2015, following order was passed:

"3 We must state here that during last few days we have come across several petitions filed in this Court wherein a grievance has been made that the orders passed by the Hon'ble Ministers in exercise of the statutory powers before October 2014 elections are not being implemented. This is one more such case wherein the grievance is made that the order dated 12<sup>th</sup> September 2014, is not being implemented. Learned AGP has invited our attention to the letter dated 21<sup>st</sup> November 2014, addressed by the Revenue and Forest Department of the State Government to the District Collector, Pune. The letter refers to a letter of the Hon'ble Minister of the Revenue Department of the same date. The letter records that as per the letter of the Hon'ble Minister, various orders passed by the Hon'ble Ministers of the earlier Government after 1<sup>st</sup> July 2014, in relation to change of user of lands, land matters, FSI,

TDR etc are required to be reviewed. Therefore, a direction has been given that the orders passed after 1<sup>st</sup> July 2014 shall not be implemented if the said orders relate to development of lands.

4 It is not the case of the respondents that any proceedings for review of the order dated 12<sup>th</sup> September 2014, have been initiated. The said order continues to remain in force.

5 We direct the learned AGP to place on record the letter dated 21<sup>st</sup> November 2014 of the Hon'ble Minister. We direct the Principal Secretary of Revenue and Forest Department to file an affidavit for justifying the directions issued under the said letter dated 21<sup>st</sup> November 2014. The Principal Secretary to state as to how the enforcement of the said binding orders can be stopped, though the said orders are in force. Such an affidavit shall be filed on or before 20<sup>th</sup> February 2015. The petition shall be listed high on board on 23<sup>rd</sup> February 2015."

3 On 23<sup>rd</sup> February 2015, time was granted to the State Government till today.

4 Writ Petition No.1377 of 2015 is filed making a similar grievance. In this case, the order passed by the Hon'ble Minister of State is dated 21<sup>st</sup> August

2014. By the said order, the State Government directed that the petitioner shall be permitted to excavate the sand from the spot at village Sadalgaon, Taluka Shirur, District Pune for remainder of the period for which he was permitted to extract the sand from village Parodi, Taluka Shirur, District Pune. Even in this case, the District Collector has not acted upon the said order notwithstanding the application made by the petitioner on 19<sup>th</sup> January 2015.

5 In both the Writ Petitions, the State Government has filed Civil Applications for extension of time. A copy of letter dated 21<sup>st</sup> November 2014 addressed by the Hon'ble Minister of Revenue to the Principal Secretary of the Revenue Department has been annexed. In the said letter, the Hon'ble Minister has stated that during the period of four months from 1<sup>st</sup> July 2014, earlier Hon'ble Cabinet Ministers and the Ministers of State have taken several decisions in respect of the lands at Mumbai, Pune and Thane Districts as regards FSI, TDR, Change of user, granting permission to transfer etc. He has stated that he has received complaints that the said decisions have been taken hurriedly and erroneously. The Hon'ble Minister therefore, directed the Principal Secretary of the Revenue Department that the concerned District Collectors should be informed that no further action shall be taken by them on the basis of the administrative orders as well as quasi judicial orders of the Hon'ble Ministers of all concerned departments

without seeking prior permission of the State Government. The letter records that concerned Local Authorities shall be informed by the District Collectors that on the basis of the orders of the Hon'ble Ministers of the earlier Government to grant development permissions, even the Local Authorities shall not take any further steps. The said letter records that the Hon'ble Minister of Revenue Department has decided to review all the orders passed during the period of four months commencing from 1<sup>st</sup> July 2014.

6 Today, the affidavits have been filed in both the petitions by Shri Manukumar Srivastava, the Principal Secretary, Revenue and Forests Department, Mantralaya, Mumbai. In paragraph 3 of the affidavits, the Principal Secretary has referred to the letter dated 21<sup>st</sup> November 2014 of the Hon'ble Minister as well as the letter addressed by him on 29<sup>th</sup> November 2014 to the District Collectors on the basis of the said letter of the Hon'ble Minister. In paragraph 4 of the said affidavits, the Principal Secretary has stated that the Hon'ble Minister (Revenue) vide his letter dated 25<sup>th</sup> February 2015 issued to the said Secretary has informed that he has withdrawn his earlier letter dated 21<sup>st</sup> November 2014.

7 The letter dated 21<sup>st</sup> November 2014 issued by the Hon'ble Minister (Revenue) records his decision to review all the orders passed by the Hon'ble Ministers of the earlier Government in land matters

in three district during the span of four months from 1<sup>st</sup> June 2014. Now, the said letter has been withdrawn. Hence, the decision of the Hon'ble Minister of reviewing all such orders recorded in the letter dated 21<sup>st</sup> November 2014 has been withdrawn.

8 The learned Government Pleader submits that a clarification may be issued that in the event any illegality is found in the orders of the Hon'ble Ministers, the remedies will remain open.

9 In the first petition, the order passed by the State Government (Hon'ble Minister of State) is of 12<sup>th</sup> September 2014. In the second petition, the order of the State is 21<sup>st</sup> August 2014. As stated earlier, the Hon'ble Minister took a decision on 21<sup>st</sup> November 2014 to review all the orders passed by the Hon'ble Ministers of the earlier Government after 1<sup>st</sup> July 2014 in relation to the land matters in three districts. Now the letter dated 21<sup>st</sup> November 2014 has been withdrawn. From 21<sup>st</sup> November 2014 till today, the State Government has found nothing wrong with the orders in question and therefore, they have not initiated any proceedings as regards the two orders subject matter of these two petitions. Therefore, in our view, no such clarification as sought by the Government Pleader is required to be issued.

10 In view of what is stated in the affidavit of Shri Manukumar Srivastava, now there is no option

but to implement the orders subject matters of these petitions. In these petitions, the issue of the legality and validity of the orders passed by the State Government of which implementation is sought does not arise and therefore, we are not making any adjudication on the issue of legality and validity of the said orders.

11 Accordingly, we dispose of the petitions by passing the following order:

- (I) In Writ Petition No.1376 of 2015, we direct the respondent No.2 to issue appropriate orders on the basis of the order dated 12<sup>th</sup> September 2014 passed by the State Government (Exhibit-C to the petition) as expeditiously as possible and in any event within a period of eight weeks from today;
- (II) In Writ Petition No.1377 of 2015, we direct the respondent No.2 to implement the order dated 21<sup>st</sup> August 2014 (Exhibit 'C' to the Petition) passed by the State Government as expeditiously as possible and in any event, within a period of eight weeks from today;
- (III) As observed earlier, we have expressed no opinion on the legality and validity of the orders passed by the State Government of which implementation is sought by way of these two petitions;
- (IV) Civil Application Nos.517 and 518 of 2015 do not survive and the same are disposed of;
- (V) All concerned to act upon an authenticated

copy of this order;

(VI) At this stage, the learned Government Pleader states that on the basis of the communication dated 21<sup>st</sup> November 2014 issued by the Hon'ble Minister of Revenue Department, in some other cases, notices for review have been issued. It is obvious that the directions issued under this order will remain confined only to the orders which are subject matter of these two petitions.

(A.K.MENON,J.)

(A.S.OKA,J.)