

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH, NAGPUR**

**WRIT PETITION NO. 2661/2015.**

M/s. M.z. Enterprises, Nagpur.

**-VERSUS-**

The State of Maharashtra and another.

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Office notes, Office Memoranda of  
Coram, appearances, Court's orders  
or directions and Registrar's orders.

Court's or Judge's Orders

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**CORAM** : **B.P.DHARMADHIKARI**  
**& P.N. DESHMUKH, JJ.**

**DATE** : **SEPTEMBER 21, 2015.**

Heard Shri A.S. Manohar, learned Counsel  
for the petitioner and Ms. K. Deshpande, learned  
A.G.P. for respondents.

2. Petitioner who got Kirnapur-A Sand Ghat  
allotted in a public auction for amount of  
Rs.1,39,99,999/- could not operate that sand ghat, as  
the respondents could not provide him the approach  
road. He therefore, seeks a direction to refund of the  
said amount and other amounts towards expenditure  
incurred by him and 18% interest on said amount from  
01.02.2015.

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3. On 14.09.2015, we have passed the following order :

*“ Heard Advocate A.S.Manohar for the petitioner and learned AGP for the respondents. Perused orders passed by this Court in Writ Petition No.1659 of 2015 on 7<sup>th</sup> of April, 2015.*

*Petitioner states that though alternate road was worked out because of objection of Irrigation Department, that road also could not be used to approach sand Ghat. Our attention is invited to communication dated 15<sup>th</sup> of April, 2015 sent by Deputy Executive Engineer, Minor Irrigation Projects, Nagpur to petitioner and to a Joint Spot Inspection as conducted on 20<sup>th</sup> of April, 2015. The representatives of Collector also attended that inspection.*

*Learned AGP submits that alternate road was made available and petitioner did not deliberately use it. It is also submitted that petitioner could have used light vehicles.*

*Advocate Manohar disputes this. He submits that Sand Ghat is to be excavated and accordingly arrangements were made. He invites attention to assertion in paragraph nos.24 and 25 of the Writ Petition to show that not even a single grain of sand has been excavated. This fact*

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*is not denied by the respondents.*

*In this situation, only question is whether refund as claimed by petitioner is regulated by any policy decision. Learned AGP is seeking time of one week to make statement in this respect.*

*Stand over to 21<sup>st</sup> of September, 2015.*

*Steno copy of this order be furnished to the parties.”*

4. Today, learned A.G.P. states that the petitioner can apply to the Hon'ble Minister, Revenue Department and the Hon'ble Minister can then look into the issue.

5. Shri Manohar, learned Counsel points out that facts are not in dispute. Though this Court granted time of one week, respondents have not come up with affidavit stating that the sand was excavated by the petitioner.

6. Learned A.G.P. is opposing the petition.

7. In this situation, in the light of the assertions in the petition that the petitioner could not reach the sand ghat at all and not a grain of sand is excavated by him, we find the petitioner entitled to order of refund. The fact that alternate road could not

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be used by the petitioner or the fact that he did not lift the sand, has remained undisputed on the record.

8. The bid amount deposited by the petitioner is Rs. 1,39,99,999/-. He deposited that amount on 01.02.2015. the other amount of roughly Rs.27 lacs is on account of expenditure incurred by the petitioner i.e. the investment made by him for operating the sand ghat. The assertions in paragraph no.24 of the writ petition shows that he paid Rs.9326/- towards costs of Registration and Tender form; Rs.5000/- towards payment to Deputy Director, GSDA; Rs. 100/- towards purchase of stamp paper; Rs. 6,18,000/- towards 20% Security Deposit; Rs. 14 lacs towards 10% VAT; Rs. 2,80,000/- towards TDS, Income Tax and Rs. 16,500/- towards demarcation charges to TLR. Thus total amount comes to Rs.1,63,28,925/-.

9. The petitioner has demanded 18% interest on said amount. However, in this jurisdiction, we are not in a position to hold that the authorities of respondents have acted highhandedly. As such, we deny the request for payment of interest. We direct the respondents to pay the above mentioned amount

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of Rs. 1,63,28,925/- to petitioners within a period of three months. If that amount is not so paid, the petitioner shall then be paid interest calculated at 6% on this amount from 01.02.2015, till he receives the entire amount.

10. With these observations and directions, Writ Petition is partly allowed and disposed of. No costs.

Rgd.

**JUDGE**

**JUDGE**