

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.7343 OF 2016

**Bharat S/o Nivrutti Deshmukh Vs. The State of Maharashtra
and others.**

WITH

WRIT PETITION NO.9141 OF 2016

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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Mr.S.B.Talekar, advocate for the petitioners.
Ms.S.S.Raut, A.G.P. for the State.

**CORAM : S.V.GANGAPURWALA AND
K.L.WADANE, JJ.**

Date : 26.10.2016.

PER COURT :

1. Heard.
2. The petitioners assail the orders/communications of the Addl. Tahsildar, Aurangabad, thereby directing the petitioners to stop excavation and transportation of sand.
3. It is not disputed that the petitioners were allotted the concerned sand spot. According to the learned A.G.P. on finding that illegal activities were carried out, the Addl. Tahsildar, had rightly passed an order directing the petitioners to temporarily stop the excavation and transportation of sand. According to learned

A.G.P., the same is in consonance with the powers vested in him, pursuant to the Government Resolution dated 12.3.2013.

4. According to Mr.Talekar, learned counsel, it is only the Committee who could have passed the order. Even as per Government Resolution dated 12.3.2013, Additional Tahsildar has no powers to pass orders directing stoppage of excavation and transportation of sand. The learned counsel relying on the judgment of the Division Bench of this Court in the case of "**Vijay Dashrath Shirbhate Vs. State of Maharashtra and another**" reported in **2010 (1) Mh.L.J.936**, states that when the sand spot is allotted to the petitioners and if the mineral is extracted from the spot allotted then Section 48(7) of the Maharashtra Land Revenue Code does not apply.

5. Learned A.G.P. further states that the complaint now has been referred to the Committee constituted as per Government Resolution dated 12.3.2013 and the Committee would take final decision.

6. The period allotted to the petitioners for excavation and transportation of the sand has come to an end on 30.9.2016. The impugned order of the Addl. Tahsildar, thereby directing the petitioners to temporarily stop the excavation and transportation of the sand has also lost its efficacy. The matter is now already referred to the Committee and the Committee would take final

decision upon it and further course of action would be pursuant to the decision of the Committee.

7. In view of that as the impugned orders has lost its efficacy, they stand quashed. The Committee shall endeavour to decide the proceedings before it expeditiously, preferably within eight (8) weeks. Needless to state, it is open for the parties to assail the order passed by the Committee as may be permissible in law.

8. The Writ Petitions are disposed of. No costs.

(K . L . WADANE , J .)

(S . V . GANGAPURWALA , J .)

Dt.26.10.2016.
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