

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
PUBLIC INTEREST LITIGATION (ST) NO. 18846 OF 2016

Sharad Vithal Koli	.. Petitioner
V/s	
The Collector, Dist. Solapur & Ors.	.. Respondents

Mr. M.A. Choudhari for the petitioner.
Mr. P.P. Kakade, AGP for respondent nos.1 to 9.

**CORAM: DR. MANJULA CHELLUR, CJ. &
M.S. SONAK, J.**

DATE : 26th OCTOBER 2016

P.C.:

The issue pertains to excavation of sand at river Bhima by the party respondent no.10. The petitioner, a farmer having only 7th standard education, is complaining the excavation of sand as beyond the permissible limits sanctioned by the District Collector. According to the petitioner, by using suction pumps, bores and other machinery, which are not permissible, more than the permissible limits of sand is excavated by the party respondent to the knowledge of the persons who have to keep an eye on the activity of excavation of sand, therefore there has to be directions as sought in the writ petition against the respondents. The petitioner has sought the following reliefs:

- (a) *Record and proceedings pertaining to various complaints made by the petitioner and various other persons from time to time against illegal and unauthorised excavation of sand carried out by Respondent No.10 without necessary permission from the authorities concerned at composite satha situated at Aarli – Talegaon at Bhima river pursuant to the order dated 11.12.2015 passed by respondent no.1 Collector kindly be called for.*
- (b) *After examining the validity and legality of the same by an appropriate order and/or direction from this Hon'ble Court, respondent no.1 Collector, Solapur, kindly be directed to declare such excavation of sand by Respondent No.10 Shri Nagesh Takmoge is illegal and unauthorised at composite satha at Aarli – Talegaon, Dist. Solapur pursuant to the order dated 11.12.2015 passed by respondent no.1 Collector at Bhima river.*
- (c) *By an appropriate order and/or directions from this Hon'ble Court, the respondent authority kindly be directed that Respondent No.10 Shri Nagesh Takmoge be declared as ineligible in participating in bidding process of sand excavation in Maharashtra and/or he may put in black list for the purpose of participating in bidding process of sand excavation in State of Maharashtra forever.*
- (d) *Pending the hearing and final disposal of this present petition by an appropriate order and/or direction from this Hon'ble Court, Chief Secretary, State of Maharashtra be directed to register FIR and/or initiate criminal or departmental*

proceedings against all government officers / private persons involved in illegal and unauthorised excavation of the sand pursuant to the order dated 11.12.2015 passed by respondent no.1 Collector at composite sathas at Aarli – Talegaon, Dist. Solapur at Bhima river.

- (e) Pending the hearing and final disposal of this present petition by an appropriate order and/or direction from this Hon'ble Court, Chief Secretary, State of Maharashtra kindly be directed to assess the damages/losses caused to the government treasury due to illegal and unauthorised excavation of sand in connivance with government officers and private persons at composite sathas at Aarli – Talegaon, Dist. Solapur at Bhima river through independent experts / agency which deems fit and proper to this Hon'ble Court and necessary process be initiated to recover said damages from the pocket of government officers / private persons those are responsible and/or involved in it.*
- (f) Pending the hearing and final disposal of this present petition by an appropriate order and/or direction from this Hon'ble Court, Respondent No.10 Shri Nagesh Takmoge kindly be restrained from carrying out further excavation of sand at composite sathas at Aarli – Talegaon, Dist. Solapur at Bhima river forthwith.*

2. The respondents are District Collector, Solapur, Additional Collector, Mining Officer, Sub-Divisional Officer, Tehsildar and also Forest and Police Departments.

3. Though learned counsel for the petitioner places reliance on page 125 (Exhibit “J”) of the writ petition papers, we fail to understand what sanctity one can attach to the xerox copy of a document. According to the petitioner, this document is obtained from the office of the concerned Tehsildar. The allegations made in the writ petition could be at the instance of the persons who are not happy that the party respondent got the permission to excavate the sand or they may be whistle blower to set right the things after noticing the violation of the permits issued or they may be persons who are craving for some sort of recognition in the eyes of the general public. Therefore, at this stage, we cannot definitely ascribe any one of the above reasons to the petitioner. Learned Government Advocate brings to our notice that CCTV cameras are fixed at the site of excavation in order to keep vigil on the activity of permissible excavation of the sand. However, the material collected at page 125 speaks something else.

4. In order to understand whether there is truth in the representation already given by the petitioner as alleged in the petition, the District Collector, who is the revenue head of the district concerned, is directed to make a detailed inquiry into the matter so as to take suitable action against the violators of the permission who are allegedly trying to meddle with the nature. This would bring out the real state of affairs.

5. In that view of the matter, we dispose of the PIL by directing respondent no.1 – Collector to make a discreet inquiry into the matter and take a final call depending upon the outcome of the inquiry in accordance with the procedure contemplated. The entire exercise has to be completed within 2 months from today. The PIL be treated as representation of the petitioner.

(M.S. SONAK, J.)

CHIEF JUSTICE