

**IN THE HIGH COURT OF JUDICATURE
AT BOMBAY**

BENCH AT AURANGABAD.

WRIT PETITION NO.10111 OF 2017

Shweta Earthmovers ... Petitioner.

Versus

The State of Maharashtra
and another. ... Respondents.

...
 WITH
 WRIT PETITION NO.10066 OF 2017
 WITH
 WRIT PETITION NO.10118 OF 2017

Mr.Sushant V.Dixit, advocate for the petitioners
Mr.A.V.Deshmukh, A.G.P. for the State.

**CORAM : S.V.GANGAPURWALA AND
V.L.ACHLIYA, JJ.**

Date : 19.12.2017.

PER COURT :

1. Mr.Dixit, learned counsel for the petitioners submits that the petitioners were allotted sand spot for excavation. The petitioners had deposited 20% of the amount as per Rules. The petitioners were not given

possession of the sand spot as third person had filed a complaint and this Court had granted interim order. This Court thereafter, referred the matter to the Committee. The Committee rejected the objection. The petitioners also made an application before the Hon'ble Minister for extension of the period lost in litigation and the period for which the petitioners were not given the possession of the sand spot. The petitioners as per the original order was allowed to excavate the sand up to 30.9.2017. Thereafter, the Collector issued letter to the petitioners to deposit the amount, however, without extending the period lost in litigation and the sand spot not being given in possession. Learned counsel submits that as no extension was granted and the letter was received late by the petitioners, the remaining amount is not deposited. The Hon'ble Minister has not considered the grievance of the petitioners in correct perspective and no reasons are given nor any order is passed about the extension of period.

2. Learned A.G.P. submits that the petitioners were given letter on 18.5.2017 to deposit the remaining amount and excavate the sand. The petitioners do not comply with the same, they were not entitled for extension of period.

3. According to Mr.Dixit, learned counsel, the rainy season would start from June and it would not be possible for the petitioners to excavate the sand in rainy season.

4. There is no dispute that the petitioners were allotted sand spot for excavation and the period allowed to the petitioners for excavation was up to end of September 2017. The petitioners were successful bidders and had deposited 20% of the amount. However, before the sand spot could be given to the petitioners in possession, the stay was granted and the matter was referred to the Committee. It took time for the Committee to decide and thereafter on 18.5.2017, the Additional Collector issued communication to the

petitioners to deposit remaining amount and the petitioners were to get three and half months to excavate the sand, may be the same is rainy season. It is a fact that the petitioners had not deposited entire amount and before possession could be delivered to the petitioners of the sand spot, the stay was operating. In view of the above, certainly now the prayer for extension can not be considered.

5. The petitioners may move the authority for refund of the amount which applications shall be considered by the authority on its own merits, considering the orders passed by this Court and the attending circumstances. On receipt of the applications from the petitioners for refund of the amount, the Collector shall take decision upon it expeditiously, preferably within four (4) months.

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

(V.L.ACHLIYA, J.)

(S.V.GANGAPURWALA, J.)

