

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9167 OF 2016

NANDKUMAR LAXMANRAO DAKHORE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr. S.B. Ghatol Patil, Advocate with Mr. U.M. Maske Patil, Advocate for
the petitioner

Mr. A.R. Kale, A.G.P. for the respondent/State
Respondent no.5 served - absent

**CORAM : S.C. DHARMADHIKARI &
MANGESH S. PATIL, JJ.**

DATE : 03-08-2017

ORAL ORDER :

1. The petitioner complains that though the sand was illegally excavated by respondent no.5, penalty has been determined and decided upon, but it is not recovered.

2. Earlier, an affidavit in reply was filed on 07/03/2017. It is an admitted position that the fourth respondent issued notice to respondent no.5 and calling upon to deposit penalty amount of Rs. 6,07,24,485/-, that sum has not been deposited. The fifth respondent filed an Appeal before the Sub Divisional Officer, Gangakhed. That

Appeal was dismissed on 16/09/2016 and the order of the respondent no.4 has been confirmed. The order of the Sub Divisional Officer, Gangakhed was challenged before the Additional Collector, Parbhani. The proceedings are yet to be decided.

3. When such was a statement made in the affidavit and appearing at page 240 of the paperbook, we naturally inquired with the State, as to why steps have not been taken to recover the penalty. More so, when the Additional Collector had not stayed the order in Appeal.

4. It is now reported by the learned Advocate appearing for the petitioner and by producing a copy of the order passed by the Additional Collector dated 09/06/2017, that the Appeal is dismissed.

5. In such circumstances, and when the respondent no.5 is duly served, and has engaged an Advocate, filed an affidavit-in-reply earlier, stating that he has availed of the legal remedies. We have found that the legal remedies have failed. The only allegation is that the petitioner is part of group which extorts money from parties like respondent no.5. It is claimed that petitioner is leader of Bhartiya

Janata Party and Vice President of Krishi Utpan Bazar Samiti, Tq. Purna, District – Parbhani. He was opposing the respondent no.5 when the respondent no.5 was excavating and selling sand pursuant to the permit or authority of the State.

6. Beyond filing such an affidavit, we have not seen any response from the fifth respondent. He and his Advocate both are absent.

7. In the circumstances, we dispose of this Writ Petition with a direction that the amount of penalty, as confirmed by the Additional Collector be recovered in accordance with law. It should be recovered as expeditiously as possible and within a period of three (3) months from today.

8. Writ Petition disposed of.

[MANGESH S. PATIL]
JUDGE

[S.C. DHARMADHIKARI]
JUDGE

arp/