

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

**WRIT PETITION NO. 9021 OF 2014
(WITH CA/8752/2016 IN WP/9021/2014)**

1. Md. Ahmed Ajim M.A. Sharif
Age: 47 years Occu: Agriculturist
R/o. East Anand Baugh,
Malkajigri, Hyderabad (A.P.)
2. Madreddy Mallareddy
Age: 52 years, Occu.: Agriculturist
R/o. Bolegaon Tq. Biloli,
Dist. Nanded
3. Kammri Omkar Ramchandraiah
Age: 44 years Occu.: Agriculturist
R/o. Joythi's Green Way,
Village Gupanpally,
Mandal & Dist. Nizambad (A.P.)
4. Guduru Manikya Reddy
Age: 58 years, Occu.: Agriculturist,
R/o. Plot No.C-5, IDA, Moulali
Hydrabad - 500 040 (A.P.)
5. Parbatta Basanna
Age: 58 years Occu.: Agriculturist
R/o. Ganjgaon Tq. Biloli,
Dist. Nanded.

...PETITIONERS

VERSUS

1. The State of Maharashtra
Through Secretary
Revenue and Forest Department,
Mantralaya, Mumbai - 32
2. The Additional chief Secretary,
Environment Department & State
Level Environment Impact Assessment
Authority Mantralaya Mumbai 400 032
3. The Collector, Nanded,
District Nanded.

4. The District Mining Officer, Nanded
Dist. Nanded
5. The Tehsildar, Biloli
Tq. Biloli Dist. Nanded.

...RESPONDENTS

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WITH**WRIT PETITION NO.9078/2014**

(WITH CA/5048/2016 IN WP/9078/2014 WITH CA/8754/2016
IN WP/9078/2014 WITH CA/11324/2016 IN WP/9078/2014)

1. M.Kirankumar Reddy
Age: 35 years, Occu.: Agriculturist
R/o. Ganji Road Bodhan
Tq. Bodhan Dist. Nizambad (A.P.)
2. Mamidi Limba Reddy
Age: 42 years, Occu.: Agriculturist,
R/o. Village & Mandal Yedapally
Nizambad (A.P.)
3. Rajesh Durgadasrao Gaware
Age: 52 years, Occu.: Agriculturist,
R/o. Chikhalwadi Corner,
Nanded Tq. & Dist. Nanded

...PETITIONERS**VERSUS**

1. The State of Maharashtra
Through Secretary
Revenue and Forest Department,
Mantralaya, Mumbai - 32
2. The Additional Chief Secretary,
Environment Department and State
Level Environment Impact Assessment
Authority Mantralaya Mumbai 400 032
3. The Collector, Nanded
District Nanded.
4. The District Mining Officer, Nanded
Dist. Nanded.

5. The Tahsildar, Biloli
Tq. Biloli Dist. Nanded.

...RESPONDENTS

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WITH

WRIT PETITION NO.9494/2014
(WITH CA/8753/2016 IN WP/9494/2014)

1. Madhusudhan Raj Reddy
Age: 55 years, Occu.: Agriculturist
R/o. Muneera Complex,
Room No.18, near to Vishnu Bhavan
Bhodan Tq. Bhodan Dist. Nizambad
2. Gangaram Gangaram Bhodhanapod
Age:60 years Occu.: Agriculturist
R/o. Post Bolegaon, Tq. Biloli,
Dist. Nanded
3. Kundapu Jalender Laxmirajam
Age:50 years Occ:Agriculturist
R/o. H No.10-3-278/31F No.406,
Adarsh Apartment, Chaitanyapuri
Karimnagar - 505 001 (Telangana)

...PETITIONERS

VERSUS

1. The State of Maharashtra,
Through Secretary
Revenue and Forest Department,
Mantralaya, Mumbai - 32
2. The Additional Chief Secretary,
Environment Department & State
Level Environment Impact Assessment
Authority Mantralay Mumbai 400 032
3. The Collector, Nanded,
District Nanded.
4. The District Mining Officer, Nanded
Dist. Nanded.

5. The Tehsildar, Biloli
Tq. Biloli, Dist. Nanded.

...RESPONDENTS

WITH
CONTEMPT PETITION NO. 432/2016
IN
WP/9078/2014

1. Rajesh Durgadasrao Gaware
Age: 52 years, Occu.: Agriculturist
R/o. Chikhalwadi Corner,
Nanded Tq. & Dist. Nanded.

...APPLICANT

(Orig. Petitioner No.3 in WP)

VERSUS

1. The State of Maharashtra
Through Secretary
Revenue and Forest Department,
Mantralaya, Mumbai - 32
2. Suresh Kakani,
Age: Major, Occu.: Service,
Presently working as Collector,
R/o. Collector Office, Nanded
Tq. & Dist. Nanded

...RESPONDENTS

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Mr. Shailesh P. Brahme, Advocate, for petitioners in Writ Petition Nos. 9021/2014 and 9494/2014.

Mr. P. R. Katneshwarkar, Advocate, h/f Mr. A. R. Syed, Advocate, for petitioner in W. P. No. 9078/2014, and C. P. No. 432/2016.

Mr. A. R. Borulkar, AGP, for respondent State.

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CORAM : R. M. BORDE & P. R. BORA, JJ.

Dated: March 23, 2017

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PER COURT :-

1. Learned Counsel for petitioners In Writ Petition No. 9021/2014, has informed that petitioner no. 2 therein has

complied with all the requirements and has also deposited the royalty charges. In this view of the matter, the respondents are directed to issue permission letter forthwith.

2. So far as petitioner no.3 in Writ Petition No.9021/2014 is concerned, it has been pointed out that he is granted authorization to excavate the sand and is conducting excavation as permissible under the letter of sanction issued by the respondent and, as such, the grievance raised by him does not survive.

3. Petitioners nos. 1 and 4 in Writ Petition No.9021/2014 have already tendered applications, seeking permission for excavation; whereas, petitioner no.5 in the said petition undertakes to tender an application within a period of one week from today.

4. The respondents are directed to consider the applications tendered by the petitioner nos. 1, 4 and 5 in Writ Petition No.9021/2014 and issue necessary permission authorizing excavation of sand within three weeks from today.

5. The petitioners shall have to pay the royalty

charges at the rate of Rs.400/- per brass as determined under the policy dated 11th May, 2015. Since the relevant regulations do not permit revision of royalty rate within a period of three years from the date of fixation of rates, it shall be impermissible to change the rates and claim higher rate of royalty beyond Rs.400/-. Since the petitioners are permitted to excavate the sand from their own property and since no tender process is required to be adopted, it would be impermissible for the respondent State to claim Earnest Money Deposit, or the Bank guarantee, and such conditions shall not be incorporated in the permission letter.

6. The petitioners shall have to pay other charges such as additional Sales Tax, Tax Collection at Source, etc. and other charges, as are permissible in law.

7. Learned Counsel appearing for the petitioners in Writ Petition No.9078 of 2014, informs that petitioner nos. 1 and 2 would tender applications seeking permission within a period of one week from today. On receipt of the application, the respondents shall, in observance of the procedure prescribed, issue necessary permission within a period of two weeks from the date of receipt of the application/s.

8. So far as petitioner no.3 in Writ Petition No.9078/2014 is concerned, it is informed that permission letter has already been issued. He shall be entitled to excavate the quantities of sand permitted under authorization letter. It would also be permissible for the petitioners to tender an application seeking extension of time in the event of their failure to excavate the quantity of sand recorded in the permission letter. If at all any grievance survives after the prescribed date recorded under the permission letter, it would be open for the petitioners to avail of the remedies as are available in law. Since the petitioners are permitted to excavate the quantities of sand out of their own properties, it shall be impermissible for the respondents to insist upon Earnest Money Deposit and the Bank guarantee, however, it would be permissible for the State to levy other charges such as Tax Collection at Source (T.C.S.), Advance Sales Tax, and such other charges, as are permissible in law.

9. Learned A.G.P., on instructions, informs that although in the letter of permission, accorded in favour of petitioner no.3 in Writ Petition No.9078/2014, the outer limit for excavation of sand is prescribed as eight weeks, the same shall

be deemed to be operative till 30th of September, 2017.

10. Petitioner No.3 in Writ Petition No.9078/2014 makes a grievance in an affidavit tendered by him that the Naib Tehsildar Mr.Navnath Baliram Bagwad has demanded illegal gratification of Rs.3,00,000/- (Rs. three lacs). The Anti Corruption Bureau, Aurangabad, is directed to take note of the allegation and conduct investigation in the matter. The District Collector, Nanded, is also directed to conduct appropriate enquiry and take measures post such enquiry. The District Collector shall inform this Court the outcome of the enquiry and the steps taken against erring official within a period of two months.

11. So far as Writ Petition No.9494/2014 is concerned, it is informed that the petitioner nos. 1 and 2 have already excavated the quantities of sand permitted under the authorization issued in their favour and, as such, the grievances raised by the petitioner nos. 1 and 2 do not survive.

12. So far as petitioner no.3 in Writ Petition No. 9494/2014 is concerned, it is informed that he has deposited royalty amount and has complied with necessary formalities.

In this view of the matter, respondents are directed to issue permission / authorization forthwith.

13. It would be impermissible for the respondent State to claim Earnest Money Deposit or the Bank guarantee and such conditions shall not be incorporated in the permission letter. The petitioner no.3 in Writ Petition No.9494/2014 shall have to pay other charges such as additional Sales Tax, Tax Collection at Source, etc. and other charges, as are permissible in law.

14. Since it has been brought to our notice that new policy guidelines have been framed by the State Government in respect of according permission to excavate sand in the private properties on 29th of June, 2016, the policy directive contained in the Government Resolution, referred to above, shall have to be applied in the matters of grant of authorization / permission for excavation of sand accumulated in private properties.

15. In view of the above, all the Writ Petitions are disposed of. Civil Applications do not survive and stand disposed of.

In view of disposal of the Writ Petitions, the Contempt
Petition stands disposed of.

(P.R. BORA)
JUDGE

(R. M. BORDE)
JUDGE

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agp/9021-14wp