

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.8946 OF 2014

Ramesh Gajanan Gharat

...Petitioner

Versus

The Deputy Conservator of Forest &
Ors.

...Respondents

WITH

WRIT PETITION NO.8947 OF 2014

Shri Pundlik Gajanan Gharat

...Petitioner

Versus

The Deputy Conservator of Forest &
Ors.

...Respondents

.....

Mr. Prashant P. Chawan with Mr. Ravindra R. Chile and Mr.
Ajinkya Jaibhave i/b. Mr. Sudam Kale for the Petitioners.
Mr. Manish Pabale, AGP for the Respondent Nos.1 to 3 and 5.

CORAM : A.S. OKA &

SMT. ANUJA PRABHUDESSAI, JJ.

DATED: 6th FEBRUARY, 2017.

P.C.:-

Heard the learned counsel appearing for the Petitioners and
the learned AGP for the first to third and fifth Respondents.

2. A proposal was submitted by the Principal Chief
Conservator of Forests, Maharashtra State on 7th May, 2009 to the
Revenue and Forest Department of the State of Maharashtra. The

proposal was to impose a complete ban for use of the forest land for quarrying. By a letter dated 20th March, 2014 the Petitioners were informed by the State Government that as per the decision reflected from the letter dated 20th July, 2009, the State Government has decided not to forward any proposal for grant of permission to do quarrying work in the forest land for the approval of the Central Government.

3. On 17th March, 2015 when the Petitions were placed before the Court, it was contended that the policy decision is applicable only to Thane Forest Division, which is only one of the six divisions forming part of the Thane Forest Circle. It was submitted that lands of the Petitioners are situated in Dahanu Forest Division to which aforesaid policy decision is not applicable. On the basis of the directions contained in the said order, in both the writ Petitions, Mr. G. Mallikarjuna, the Deputy Conservator of Forest, Dahanu Division, Dahanu filed an affidavit. In the said affidavit it is stated that Thane circle is an administrative unit of the Forest Department which includes Thane, Dahanu, Shahapur, Jawahar, Alibag and Roha Forest Divisions. It is pointed out that proposals of the Petitioners are in respect of the lands in village Khamloli, Taluka Palghar, District-Palghar which is in Dahanu Division. It is, therefore, stated that the Government decision

dated 20th July, 2009 is applicable to the said lands. The Petitioners are relying upon the letter dated 20th November, 2009 addressed by the Chief Conservator of Forests, Thane, to the Principal Chief Conservator of Forests, the Government of Maharashtra. In the said letter, the Chief Conservator of Forest expressed his opinion that the proposals which are submitted prior to the decision dated 20th July, 2009 will not be governed by the policy decision.

4. The learned counsel appearing for the Petitioners pointed out that the proposals submitted by the Petitioners for the purpose of quarrying have not been approved only in view of the policy decision dated 20th July, 2009. He has submitted that as the proposals received from the Petitioners are prior to the date of policy decision, the same will not be governed by the said policy decision.

5. The question is whether the policy decision dated 20th July, 2009 will apply to the pending applications /proposals. The policy decision dated 20th July, 2009 is silent on this aspect. It is, therefore, for the State Government to consider this aspect. Accordingly, we pass the following order :

(i) We direct the State Government to consider the cases of both the Petitioners and to decide whether the policy decision reflected from the communication dated 20th July, 2009 will also apply to the proposals which were pending on the date of taking policy decision. Appropriate decision shall be taken by the State Government within a period of three months from the date on which an authenticated copy of this order is produced in the office of the Revenue and Forest Department of the Government of Maharashtra;

(ii) If the State Government comes to the conclusion that the policy decision will not apply to the pending proposals, the State Government shall issue directions to the concerned Forest Officer to deal with the pending proposals and decide the same as expeditiously as possible. If the State Government is of the view that the policy decision will apply to the pending proposals, the said decision shall be communicated to the Petitioners. If the Petitioners are aggrieved by the said decision, it will be open to the Petitioners to challenge the same in

accordance with law;

(iii) Writ Petitions disposed of in above terms;

(iv) All concerned to act upon an authenticated copy of this order.

(ANUJA PRABHUDESSAI, J.)

(A.S. OKA, J.)