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

**WRIT PETITION NO.5841 OF 2006**

1. Udesing s/o Mohansing Patil,  
Age: 63 years, Occu: Agriculturist

2. Sahebrao s/o Nimbrao Patil,  
Age: 58 years, Occu: Agriculturist,

Both R/o Village Umberkhede,  
Tq. Chalisgaon, Dist. Jalgaon

..PETITIONERS

VERSUS

1. The State of Maharashtra,  
Through Principal Secretary,  
Revenue & Forest Department,  
Mantralaya, Mumbai-32

2. The Collector, Jalgaon,  
Jalgaon

..RESPONDENTS

Mr P. R. Patil, Advocate for petitioners;  
Mr A. S. Shinde, A.G.P. for respondents

**CORAM : PRASANNA B. VARALE  
AND  
S. M. GAVHANE, JJ.**

**DATE : 22nd June, 2018**

**ORAL ORDER:**

Heard Mr Patil, learned Counsel for the petitioners and learned  
A.G.P. for respondents.

2. The petitioners are the residents of village Umberkhede, Tal.  
Chalisgaon, Dist. Jalgaon. The State Government issued public

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proclamation for allotting the rights to the successful tenderers for excavation of sand from the sand Ghat situated in Jalgaon district. It is the grievance of the petitioners that because of the unguided excavation of the sand, the residents of the area are suffering due to the ecological damages. It is submitted in the petition that various representations were submitted to the authorities of the State Government raising grievances of the residents, but no heed was paid to the representations. As such, the petitioners left with no choice but to approach this Court.

3. The prayers in the petition are prayer clauses (A) and (B). The Division Bench of this Court, by an order dated 19<sup>th</sup> August, 2006, referring to the basic grievance of the petitioners i.e. no hearing opportunity is granted to the petitioners, granted interim relief only in respect of excavation of the sand deposit from village Umberkhede. The Division Bench made it clear that an auction of the other sand spot deposits is not stayed. By an order dated 15<sup>th</sup> November, 2006, the Division Bench of this Court was pleased to issue Rule in the petition and the interim relief earlier granted was continued.

4. Learned A.G.P., by inviting our attention to the Government Notification dated 3<sup>rd</sup> January, 2018, submitted that the policy of the State Government in respect of permission for excavation of the sand deposits has undergone various changes by way of periodical changes, by way of various circulars as well as in view of the judicial pronouncement by this Court.

5. Perusal of the latest policy framed by the State Government, in the Government Circular dated 3<sup>rd</sup> January, 2018 shows that the State Government has initiated an e-auction process for transparency. Then in the circular, different cautionary modes are referred for survey of the sand Ghats and fixing sand Ghats for excavation.

6. Then there is a pre-requisite recommendation/permission of the Gramsabha. The policy then refers to the circular issued by the Central Government, dated 15<sup>th</sup> January, 2016 for permission from the environment department or the authority like State level environment impact assessment authority. Then there is a minimum qualification prescribed for the tenderers or auction purchasers. It may not be necessary for us to refer to the other details of the circular, suffice to say that the State Government in the latest policy has taken care of the grant of opportunity of hearing to such persons or institutions, who are raising their grievance in respect of sand excavation.

7. Clause 19 of the circular refers to constitution of District Level Committee under the Chairmanship of Additional Collector or the Collector. The other members of the Committee are, Chief Executive Officer of Zilla Parishad, the Executive Engineer of the Public Works Department, Senior Officers from the Ground Survey and Development Department, a District

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Level Officer of the Pollution Control Board and District Mining Officer, being Member Secretary of the Committee. Clause 19 (B) refers to hearing of the complaints received by the persons or institutions making grievance about excavation of sand. It also refers to an enquiry to be conducted through Tahsildar and to submit the report to the Committee. The Committee is expected to take a decision on the report, if so received, within 15 days. Clause 19 (C) also provides an opportunity to the auction purchaser or successful tenderer of submitting representations to the District Level Committee, in case if he is opposed by the local persons for excavation of sand. Clause D then refers to an appeal made available to a person, who is aggrieved by the decision of the Committee, by way of an appeal before the Divisional Commissioner. The decision of the Committee can be challenged by the aggrieved person and the Divisional Commissioner is to take decision within 15 days on such appeal received by him and he must inform the decision to the person/s concerned as well as to the District Collector. Then there are the other directions for disposal of seized sand material, etc.

8. It is not in dispute that the petitioners are challenging the allotment of sand Ghat for the year 2006-2007. Now, such allotment would be governed by the latest policy framed by the State Government. In view of the provisions in the circular for grant of opportunity of hearing to the aggrieved person or organization or institution, nothing remains in the present petition.

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The petition, thus, has been rendered infructuous now. As such, Writ Petition is disposed of. Needless to state that in view of disposal of the petition, the interim relief granted by this Court stands vacated.

**(S. M. GAVHANE, J.)****(PRASANNA B. VARALE, J.)**

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