

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11495 OF 2018

DILIP NARSING PAWAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Shri Urgunde Suhas P.
AGP for Respondents 1 to 5 : Shri Patil K.S.
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CORAM : RAVINDRA V. GHUGE, J.
Dated: October 16, 2018
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PER COURT :-

1 This matter was heard extensively on 15.10.2018 and was posted today for the petitioner to take instructions as regards depositing of amounts.

2 The petitioner is aggrieved by the order of respondent No.5 - District Mining Officer, by which his stone crusher facility has been brought to a stand still and he is directed to clear off all earlier dues. The learned counsel for the petitioner has indicated from Form 19-C maintained by the office of the Executive Engineer, Public Works Division that the following amounts have been paid by the petitioner and on one occasion by his contractor:-

- (i) In 2014 - Rs.69,868/- were paid,
- (ii) Rs.22,00,000/- were deposited by Minar Construction Latur with regard to 32,380 brass of stone,
- (iii) Rs.10,00,000/- were deposited under the orders of this Court in March 2018,
- (iv) An amount of Rs.10,00,000/- would be deposited with respondent No.5, within one week from today and Rs.15,00,000/- would be deposited within two weeks thereafter.
- (v) The royalty for the current contract period for 2018-19 would also be paid at regular intervals as per the terms of the contract.

3 Considering the above statements, which are made to the Court and have been recorded, this petition is partly allowed with the following directions:-

(A) The impugned order dated 21.9.2018 is set aside, subject to the compliance of the undertaking statements recorded above of further payments.

(B) Respondent No.2 is, therefore, directed to decide proceedings No. 2018/ Gau Kha/Khadan/Vasuli/Kavi, as expeditiously as possible and in any case on/or before 31.1.2019, on it's own merits.

(C) The litigating sides would appear before respondent

No.2 on 24.10.2018 at 12.00 Noon and formal notices need not be issued.

(D) The petitioner is at liberty to tender written notes of submissions.

(E) It goes without saying that after re-assessment of the dues, if any amount is noticed to have been paid in excess by the petitioner, the same shall be adjusted against his future payment of royalty amount and if there is any short fall, the petitioner shall clear the said short fall within four weeks from the date of the order of the District Collector and subject to such deposit, the petitioner would be at liberty to avail of the appeal remedy.

(F) Since the petitioner is depositing an amount of Rs.10,00,000/- within one week from today, upon such deposit, respondent No.5 shall forthwith direct the Tahsildar to remove the seal immediately and the petitioner would be at the liberty to operate his crusher.

(G) If there is any default in payment of the second installment of Rs.15,00,000/-, respondent No.5 would be at liberty to issue sealing orders of the crusher facility of the petitioner.

(RAVINDRA V. GHUGE, J.)

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