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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 7334 OF 2018

M/s. R. R. Enterprises ... Petitioner
Vs.
The State of Maharashtra & Ors. ... Respondent

Mr. Y. B. Lengare, for the Petitioner.

Mr. V. S. Gokhale, 'B' Panel counsel, for the Respondent - State.

CORAM : R. M. BORDE &
V. M. DESHPANDE, JJ.

DATE : AUGUST 2, 2018

ORAL JUDGMENT :-

1. Heard. Rule. Rule made returnable forthwith.

Learned 'B' Panel counsel Mr. V. S. Gokhale waives notice for the Respondent – State. By consent of parties, petition is taken up for final hearing.

2. By this petition, Petitioner is praying for issuance of directions to Respondent Nos. 2 to 4 i.e. the Divisional Commissioner, the Collector and the Additional Collector to accord him permission to lift the sand stock at Dabhol and Sape

Tarfe Govele, taluka Mahad, district Raigad. It is not a matter of dispute that the Petitioner was granted authorisation for excavation of sand and the quantity that has been excavated by the Petitioner is within the permissible limits as well as before lapsing of period for which authorisation was issued.

3. The Petitioner, however, could not lift the sand which was excavated during the continuance of license or after expiry of the extended period, provided under the policy for removal of the excavated sand. The Petitioner contends that at the relevant time, there was heavy rain and as such, he could not take steps for removal of sand. The Petitioner, therefore, seeks time to facilitate him to lift, transport, and sale remaining sand, which has been excavated, specified in the panchanama drawn by the revenue officials on 11.7.2018. It is the contention of the Respondent that such a permission cannot be accorded after lapse of the period provided under the policy of the State Government. It is contended that it is the responsibility of the contractor to remove the sand collected during the license period, and it would not be permissible to permit the contractor

to transport the collected sand after expiry of period provided in authorisation letter.

4. The request made by the Petitioner deserves to be granted, since because of circumstance beyond the control of the Petitioner, he could not transport the excavated stock of sand within the time frame provided under the policy of the State Government. Considering the exceptional circumstances, we deem it appropriate to permit the Petitioner to remove the sand stock which is stored at the spot as recorded in the panchanama dated 11.7.2018, drawn by the revenue officials. The Petitioner shall remove the sand stock within a period of two weeks from today. The Respondent revenue authorities shall issue necessary authorisation / passes in favour of the Petitioner to facilitate him to remove the sand stock within the specified time. Rule is made absolute in the aforesaid terms. No costs.

Sd/-
[V. M. DESHPANDE, J.]

Sd/-
[R. M. BORDE, J.]

Vinayak Halemath