

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

WRIT PETITION NO. 246 OF 2019

Jaydatta Agro Industries Ltd.
Through Chairman
Prajakta Suresh Dhas .. Petitioner

Versus

The Union of India and others .. Respondents

Shri R. N. Dhorde, Senior Advocate i/by Shri V. R. Dhorde,
Advocate for the Petitioner.'

Shri S. B. Deshpande, A.S.G. a/w Shri R. B. Bhosale, Advocate
for Respondent Nos. 1 and 2.

Shri S. B. Yawalkar, Addl.G.P. for Respondent Nos. 3 and 4.

**CORAM : S. V. GANGAPURWALA AND
AVINASH G. GHAROTE, JJ.**

DATE : 08TH NOVEMBER, 2019.

FINAL ORDER :

. We heard Mr. Dhorde, the learned senior advocate for the petitioner and Mr. Deshpande, the learned Assistant Solicitor General for respondent Nos. 1 and 2.

2. Mr. Dhorde, the learned senior advocate submits that, cancellation of I.E.M. and forfeiture of the bank guarantee is illegal.

3. Mr. Deshpande, the learned A. S. G. supports the order cancelling I.E.M. and forfeiting the bank guarantee.

4. After considering submissions for respective parties, it is clear that, from the date of issuance of IEM effective steps were not undertaken as is required under Sugarcane Control Order. So also commercial production had not commenced within the extended period as per the amended Clause 6C of the Sugarcane Control order, 1966.

5. This would take us to the next contention of the forfeiture of the bank guarantee.

6. It has been submitted that, show cause notice also nowhere gave the reasons for confiscation of the bank guarantee.

7. The consequence of non implementation of the provisions of clause 6B and 6C are provided in clause 6D. In the clauses enumerated therein the performance guarantee can be returned upon eventualities as laid down in the said provisions. The respondents are supposed to consider the same. From the order it does not appear that the said aspect has been considered with regard to forfeiture of performance guarantee.

8. In the light of the above, we set aside the order to the extent of forfeiting the performance guarantee of the petitioner. The respondents shall take fresh decision on the aspect of forfeiture of performance bank guarantee after hearing the petitioner and considering the clause as is laid down in Clause

6D of the Sugarcane (Control) Order, 1966.

9. The writ petition is accordingly disposed of. No costs.

[AVINASH G. GHAROTE, J.] [S. V. GANGAPURWALA, J.]

bsb/Nov. 19