

SAS

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8095 OF 2017

Vilas Sahebrao Deshmukh	..Petitioner.
V/s.	
State of Maharashtra & Ors.	..Respondents.

Mr.Harish Nishar h/f. Amey Deshpande for the petitioner.

Mr.R.P.Kadam, AGP for respondent Nos.1 to 5.

CORAM: NITIN W.SAMBRE, J.

DATE : JULY 10, 2019

P.C.:-

Heard respective counsel.

2. The order impugned is dated October 18, 2016 passed by the State Government wherein request of the petitioner for refund of consideration deposited by him toward the auction price for withdrawing sand for the year 2011-12, came to be rejected.

3. It is the case of the petitioner that after a successful bid, he has deposited an amount of about Rs.42,50,000/- towards withdrawal of sand for the period from 2011-12.

4. It is the case of the petitioner that he could withdraw only part of sand and in view of the resistance shown by the villagers and Gram Panchayat through a Resolution, he was unable to withdraw the sand, though was a successful bidder. According to him, in view of above, since he could not withdraw the sand, he is entitled to proportionate refund in view of the policy of the Government.

5. The Tahsildar, Karad submitted a report in response to the request of the petitioner, to the Collector, Satara thereby pointing out that upto March 31, 2012 the petitioner has withdrawn 1498 brass of sand. The report of the Additional Collector to the State Government speaks of use of the 15 royalty books from serial Nos.0 to 749 and 5 receipt books from serial Nos.750 to 999 being left unused.

6. In spite of the aforesaid report, the State Government has proceeded to reject the prayer of the petitioner for refund of deposit.

7. Apart from the fact that the order impugned does not consider the report submitted by the Tahsildar and the Additional Collector, no opportunity of hearing was given to the petitioner.

That being so, the order impugned is not sustainable. As such, the petition is allowed in terms of prayer clause (b).

8. The petitioner to appear before the State Government with all the relevant documents on August 19, 2019 so as to establish his case for refund of the amount. It is expected that the State Government shall hear and dispose of the same after hearing the petitioner within a period of four months after the appearance of the petitioner.

9. The petition stands disposed of in above terms.

(NITIN W.SAMBRE, J.)