

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.147 OF 2018
(M/s. Danish Construction vs. State of Maharashtra and others)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders Court's or Judge's orders
or directions and Registrar's orders.

Shri V.S. Kukday, Advocate for petitioner.
Shri N.S. Rao, Assistant Government Pleader for
respondents.

CORAM : PRADEEP NANDRAJOG, C.J.
 AND R.K. DESHPANDE, J.

DATED : AUGUST 16, 2019

P.C. :

Heard learned Counsel for the parties.

2) The case pleaded by the petitioner is that it obtained a lease for minor mineral : sand. This was pursuant to auction conducted by the second respondent. Permission was granted to excavate 7067 brass sand. The grievance in the petition is that conducting inspection without notice to petitioner and relying upon the inspection report dated 7/7/2017, notice dated 10/8/2017 was issued calling upon the petitioner to show cause as to why the lease should not be cancelled and penalty imposed. As per the petitioner, the action was motivated at the behest of local M.L.A. - a fact which we note only for the purpose of record for the reason we are not inclined to opine on the said aspect of the matter. Responding to the show

cause notice, the petitioner demanded a copy of the inspection report and such other material on the basis whereof the show cause notice was issued. None was supplied. On 28/8/2017 another show cause notice was issued to the petitioner once again alleging illegal excavation of sand. The petitioner demanded the material on the basis whereof show cause notice was issued.

3) Personal hearing was fixed for 5/9/2017. The petitioner sought adjournment.

4) The petitioner was visited with the penalty order dated 29/9/2017. The lease was cancelled and penalty in the sum of ₹.61,83,480/- was imposed. Security deposit in the sum of ₹.14,51,600/- was also forfeited.

5) Suffice is to state, it is the duty of the Authority to have supplied the material on the basis whereof the proposed action was initiated. A valuable civil right of the petitioner in the form of lease being cancelled with security deposit forfeited coupled with penalty levied has been infringed. Principles of natural justice required the material to be supplied.

6) We dispose of the petition by quashing the impugned order dated 29/9/2017 passed by respondent no.2. We direct the Collector (respondent no.2) to supply the material on the basis whereof the show cause notice referred to above has been served upon the petitioner. The petitioner would be granted two weeks' time to furnish a response to the show cause notice after

the material relied upon is supplied. Personal hearing be granted to petitioner and fresh order would be passed in accordance with law. No costs.

(R.K. DESHPANDE, J.)

(CHIEF JUSTICE)

khj