

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

967 WRIT PETITION NO.5882 OF 2020

RAUF CHUNNUMIYA SAYYED

..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

...

Mr. V. D. Salunke, Advocate for the Petitioner.

Mr. S. G. Karlekar, AGP for Respondent-State.

...

**CORAM : S. V. GANGAPURWALA &
R. G. AVACHAT, JJ.**

DATED : 25th NOVEMBER, 2020.

PER COURT:-

1. Mr. Salunke, learned counsel submits that the petitioner was allotted the sand spot for an amount of Rs.81,81,819/- to excavate 2826 Brass of sand. The petitioner commenced the excavation. The petitioner hardly excavated 270 Brass. He was prevented to extract the sand as water was flowing from Khadka Barriage/Bandhara and full water was stored in the bed of River Godavari. The villagers obstructed the vehicles of the petitioner carrying the sand. The Tahasildar made an enquiry. He came to the conclusion that, the petitioner is not at fault and the trucks were returned to the petitioner. The villagers were obstructing the excavation and transportation of the sand. For four days the vehicle was detained illegally. The petitioner could not excavate the sand because of the circumstances beyond the control of the

petitioner. The petitioner filed an application for refund of the amount on 13.10.2017 as per Government Resolution dated 03.01.2018. The petitioner was communicated that his application for refund has been rejected. The application is rejected on altogether different grounds. The petitioner was also not given any opportunity to point out the real facts.

2. The learned A.G.P. submits that the petitioner is not entitled to refund of the amount.

3. The learned A.G.P. could not dispute the contention of the petitioner that the petitioner was not given any notice and was not in a position to put forth his stand.

4. In view of the facts and circumstances of the case, it would be appropriate, if the petitioner is given opportunity to put forth his case.

5. In light of the above, we pass the following order:

ORDER

A. The impugned order is quashed and set aside.

B. The authority shall decide the application of the petitioner for refund of the amount afresh on its own merits, after given

opportunity to the petitioner to put forth his case.

C. The application be decided expeditiously and preferably within a period of four months.

6. Writ Petition is disposed of. No costs.

(R. G. AVACHAT)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

Devendra/November-2020