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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2080 OF 2019
WITH
CIVIL APPLICATION STAMP NO. 13207 OF 2019

M/s. Jijau Construction, Through
its Partner Nilesh Sambre

.. Petitioner

Vs.

The State of Maharashtra & Ors.

.. Respondents

Mr. D. N. Salvi a/w Mr. Sagar Redkar, Mr. S. S. Sule & Mr. Aditya
Raktade for Petitioner.

Mr. Y. S. Khochare, AGP for Respondent Nos.1 to 4.

CORAM: PRADEEP NANDRAJOG, CJ. &
SMT. BHARATI DANGRE, J.

FEBRUARY 05, 2020

P.C.

1. The Petitioner was issued a Work Order on 21.08.2015, being the successful bidder pursuant to the notice inviting tender for improving the Jawhar Jamsar Chalatwad Khambala Selwasa Road, S.H. 34A Km. 40/100 to 60/100 passing through Jawhar Taluka, District – Palghar.

2. The tender specifications required the amounts claimed item-wise and vide entry at Sr. No. 95 it was recorded that 172566.01 Cubic Meter earth work would be executed and for which royalty chargeable would be as per the Revenue and Forest Department notification dated 15.01.2003 issued under the Maharashtra Minor Mineral Extraction Rules, 2003.

3. Concededly, as per terms of the tender the Executive Engineer notified to the Petitioner the place where the soil was to be extracted and transported to execute the tendered works and from the running bills submitted by the Petitioner royalty was deducted by the Executive Engineer of the Public Works Department, State of Maharashtra. Letter dated 29.11.2018 addressed by the Executive Engineer to the Assistant Collector informs that from the running bills submitted by the Petitioner royalty has been deducted and would be deposited in the Treasury of the Government under the appropriate head.

4. Thus, we see no justification for the Assistant Collector of the Revenue Department to levy any penalty upon the Petitioner or to seize the construction equipment of the Petitioner.

5. The Writ Petition is accordingly disposed of granting prayer (a) in paragraph 12 of the Writ Petition. We are not passing any order pursuant to prayer (c) for the reason the Trucks, Concrete Mixer Trucks etc. which were seized by the Assistant Collector have since been released to the Petitioner.

6. A word of clarification. Should the Collector find that the royalty deducted from the running bills of the Petitioner is less than the royalty which was required to be paid as per the Rules, he would inform the Executive Engineer of the Public Works Department of the State of Maharashtra who, in turn, would inform the Petitioner said fact. Any decision taken by the Collector concerning the volume of minor mineral extracted or the royalty leviable would be subject to a challenge by the Petitioner for the reason the Petitioner would ultimately be affected by said decision.

7. Civil Application Stamp No. 13207 of 2019 is disposed of as infructuous.

Pravin D.
Pandit

SMT. BHARATI DANGRE, J.

CHIEF JUSTICE