

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

3 WRIT PETITION NO.3161 OF 2020

**LAXMI CONTRACTOR THROUGH ITS PROPRIETOR,
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for Petitioner : Mr. Joshi Hrishikesh A.
AGP for Respondents-State : Mr. S. B. Yawalkar.
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**CORAM : RAVINDRA V. GHUGE, AND
S. G. MEHARE, JJ.**

DATE : 30.08.2021

PER COURT :-

1. By this petition, the petitioner has put forth prayer clause "A" as under :

"A) By issue of Writ of Mandamus or any other Writ, order or directions of like nature, the Respondents be directed to refund tender amount of Rs.39,36,800/- with interest within one week."

2. We have considered the submissions of the learned advocate for the petitioner and the learned AGP on behalf of the respondent. With their assistance, we have gone through the petition paper book.

3. The petitioner had earlier approached this Court since his appeal before the Hon'ble Minister seeking extension of time for excavation of sand, was pending. His Writ Petition No.1498 of 2015 was disposed off by order dated 11.02.2015 directing the State Government to dispose of his appeal within eight weeks. It is informed that by the impugned order dated 07.08.2019 the earlier decision of the Hon'ble Minister dated 09.09.2014 changing the sand Ghat, was recalled.

4. The grievance of the petitioner is that he preferred an application No.6214 of 2016, simultaneously for seeking refund of the amount of Rs.39,36,800/-, which he had deposited for acquiring the sand spot. Neither did he get the spot for excavation of sand, nor the said application seeking refund received any decision.

5. In our view and in the light of the request made by the petitioner, it would be appropriate to permit the petitioner to prefer a fresh application before the State Government and seek refund. The learned AGP submits that if such an application is filed, the same would be dealt with strictly in

accordance with the policies of the State Government and would be adjudicated upon on its own merits within a particular period time framed.

6. We find it appropriate to record that the impugned order passed by the Hon'ble Minister on 07.08.2019 though results in recalling the order of change in sand Ghat, the application No.6214 of 2016 filed by the petitioner, in the alternative, for seeking refund of the amount with 15% interest, was not decided though referred to in the impugned order. As such, if the petitioner prefers a fresh application, on or before 15.09.2021, the impugned order would not be an impediment for the State in deciding the said application on its own merits.

7. In view of the above, this petition is disposed off. The petitioner shall file an application for seeking refund of the amount of Rs.39,36,800/- with associated reliefs, on or before 21.09.2021 before the State. On the filing of such an application, the Competent Authority shall issue notices to the parties concerned and after affording a reasonable opportunity of hearing, would pass a reasoned order by referring to the policies of the State Government, on or before 31.12.2021. If

the petitioner is aggrieved by such decision, he would be at liberty to resort to a legal remedy as is permissible in law.

(S. G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)

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vmk/-