

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

WRIT PETITION NO. 5560 OF 2021

M/s B. Rawal Building Material Suppliers ... Petitioner
Versus
The State of Maharashtra and others ... Respondents

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Mr. Amit S. Savale, Advocate for the petitioner
Mr. D. R. Kale, Government Pleader for the State

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**CORAM : S. V. GANGAPURWALA AND
SHRIKANT D. KULKARNI, JJ.**

DATED : 31st MARCH, 2021

PER COURT :-

. We have heard Mr. Savale, learned Advocate for the petitioner. According to the learned Advocate for the petitioner, the respondents be directed to remove anti-competitive practice created by the respondents and till then the petitioner may not be compelled to pay the remaining amount of the upset price and other charges and to go ahead with the contract. According to the learned counsel, under Government Resolution / Circular dated 05.02.2021, the transportation of sand is permitted from Gujarat State. The sand brought from Gujarat is very cheap than the sand available in the State of Maharashtra and because of that the petitioner would suffer

huge loss and also the petitioner would go bankrupt. The petitioner may be allowed to withdraw from the tender.

2. Mr. Kale, learned Government Pleader submits that transportation of sand from Gujarat was never banned and the same is permissible and continued from many years.

3. The petitioner had filled in the tender. The parties are governed by the terms of the tender. It is the commercial transaction between the petitioner and the respondents. It is only after going through the tender process. The petitioner is supposed to fill in the tender.

4. It is not a case of frustration of contract. As contended by the learned Government Pleader that the transportation of sand from Gujarat was permissible since many years and it is not only through the Government Resolution / Circular dated 05.02.2021.

5. It would not be open for the petitioner to take the stand that if the petitioner is not allowed to withdraw from the tender, he would suffer huge loss and would go bankrupt.

6. It is submitted that the petitioner has already

approached the authorities. It is between the petitioner and respondents to consider the representation/application and the terms of the contract to resolve the dispute.

7. The petitioner may approach the respondents. The respondents may considering the terms of the contract, take decision in accordance with law.

8. The writ petition is disposed of. No costs.

[SHRIKANT D. KULKARNI, J.]

[S. V. GANGAPURWALA, J.]

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