

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

**1013 WRIT PETITION NO.6422 OF 2021
WITH CA/5281/2021 IN WP/6422/2021**

**MAHANANDA TRADERS THROUGH TS PROPRIETOR
VERSUS
THE STATE OF MAHARASHTRA AD OTHERS**

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Advocate for Petitioners : Mr. Sachin S. Deshmukh
AGP for Respondent Nos. 1 to 3 : Mr. A. R. Kale
Advocate for Caveator Not made Party : Mr. R. K. Temkar

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1016 WRIT PETITION NO.6522 OF 2021

**I.K. TRADERS THROUGH ITS PROPRIETOR
VERSUS
THE STATE OF MAHARASHTRA AD OTHERS**

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Advocate for Petitioner : Mr. S. S. Thombre h/f
Mr. Sayyed Tauseef Yaseen
AGP for Respondent Nos. 1 & 2 : Mr. A. R. Kale
Advocate for Respondent No.3 - Caveator : Mr. R. K. Temkar

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**CORAM : S. V. GANGAPURWALA AND
R. N. LADDHA, JJ.**

DATE : 03rd SEPTEMBER, 2021

PER COURT :

1. Heard Mr. Deshmukh, learned counsel for petitioner in Writ Petitioner No. 6422 of 2021, Mr. S. S. Thombre, learned counsel for petitioner in Writ Petition No. 6522 of 2021, the learned AGP and the learned advocate for the intervener.
2. The grievance of the petitioners appears to be that the trucks used by the petitioners for transporting sand are prohibited

by the respondents illegally, on the basis of the letter issued by the Under Secretary, Revenue and Forest Department, dated 20th May, 2021. Pursuant to the letter of the Under Secretary, the Collector, Beed under the letters of even date has restrained the petitioners from transporting it's truck and has restricted the transport of the sand by tractor only. The said communications are assailed in the present writ petitions. Mr. Deshmukh, learned counsel for the petitioner, submits that Government Resolution dated 03rd September, 2019 nowhere prescribes such restrictions for the use of tractors. That restriction is from riverbed to the depot. The petitioners cannot use tractors for transporting the sand from riverbed to the depot. From depot onwards there is no restrictions upon the petitioner to transport the sand by trucks. The respondents are interfering by issuing erroneous communications.

3. The learned AGP Mr. Kale, submits that MLA of Georai constituency made constant agitation with the Government for stoppage of sand transportation by heavy vehicles. Considering the application given by the MLA and the continuous agitation of local MLA, the State Government issued letter to the District Collector dated 20th May, 2021. Pursuant to the said letter of the State Government, the Collector issued communication to the petitioners prohibiting transport of sand through heavy vehicles

because of which road conditions are deteriorating. The learned AGP submits that it is also noticed by the authorities that the vehicles carry sand above the weight limit because of which road condition becomes worst. If the statute, rules or executive instructions do not prohibit the petitioners from use of heavy vehicles for transportation of sand from depot then it would be erroneous to issue the impugned communications only because the Member of Legislative Assembly of the constituency requires it to do so. The respondents are certainly entitled to act within the ambit of their powers provided to them under the statutes, rules and the executive instructions issued from time to time, and not beyond the same.

4. The restriction to transport the sand through heavy vehicles is from riverbed to depot. Certainly the petitioners are not entitled to use heavy vehicles for transport of sand from riverbed to depot. However, no further restrictions are there for transportation of sand from depot onwards. The restrained place under the impugned communication certainly would be excessive and erroneous. It appears that the impugned letters have already been stayed by the subsequent letters. Be that as it may.

5. As there are no rules, regulations or instructions prohibiting transportation of sand via heavy vehicles from depot onwards, the impugned letters are set aside.

6. Needless to state, if the petitioners or any other person carry excessive weight, the respondents are entitled to take necessary action.

7. Writ petition is accordingly disposed of. No costs.

(R. N. LADDHA, J.)

(S. V. GANGAPURWALA, J.)

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