

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

973 WRIT PETITION NO.351 OF 2021

CHANDAN ENGINEER AND CONTRACTORS PVT LTD THR ITS
DIERCTOR KISHOR POPATLAL CHORDIYA ..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

...

Mr. N. D. Sonavane, Advocate for the Petitioner.

Mr. S. R. Yadav Lonikar, AGP for Respondents-State.

...

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

DATED : 02nd MARCH, 2021.

PER COURT:-

1. Mr. Sonavane, learned counsel for the petitioner submits that the permission was granted by respondents to the petitioner on 05.02.2020 permitting the petitioner to excavate the minor minerals viz stone and murum from land Gut No.41 of village Rampuri, Tq. And Dist. Aurangabad owned by the petitioner for a period of 5 years. On 04.03.2020, the Additional Collector without notice to the petitioner directed the Tahsildar not to hand over possessions of the said land to the petitioner and not to permit the petitioner to excavate from Gut No.41, unless the petitioner pays royalty amount of Rs.4,21,80,400/- as per order dated 12/13.02.2020 passed by the Additional Tahsildar under Section 48(7) of the Maharashtra

Land Revenue Code for excess excavation from Gut No.227/1 of the village Tisgaon.

2. The learned counsel further submits that the petitioner had challenged the order of the Additional Tahsildar imposing penalty before this Court. This Court directed the petitioner to avail the alternate remedy of Appeal. The petitioner has filed Appeal and the same is pending before the Appellate Authority. The respondents could not have passed the impugned order.

3. The learned A.G.P. submits that it was noticed that the petitioner has carried out the excavation at Gut No.227/1 of village Tisgaon. The royalty amount of the said excavation of minor minerals comes to Rs.4,21,80,400/-. The petitioner is bound to pay the said amount. The assessment has been properly made by the respondents. Unless the petitioner pays the amount, he cannot be allowed to excavate the minor minerals from his land Gut No.41 of village Rampuri.

4. We have considered the submissions canvassed by the learned counsel for the respective parties.

5. Admittedly, before passing the impugned order, the petitioner was never issued with the notice. The petitioner was granted permission to excavate the minor minerals that is stone and murum

from Gut No.41 of village Rampuri for a period of 5 years under order dated 05.02.2020. The said land is owned by the petitioner. Abruptly on or about 04.03.2020 the directions are issued that unless the petitioner deposits the amount of royalty for illegal excavation from Gut No.227/1 and 225/4 for a period from 1995 to 2007, the possession of Gut No.41 admeasuring 1 hector shall not be given to the petitioner. The principles of natural justice are not adhered to. The Appeal is filed by the petitioner against the order claiming an amount of Rs.4,21,80,400/-. The said Appeal is subjudice. The respondents could not have without notice to the petitioner passed the impugned order.

6. In view of that, as the order is without adhering to the principles of natural justice, the impugned order is quashed and set aside.

7. It is submitted that the Appeal filed by the petitioner against the order of royalty for illegal excavation from the land at Tisgaon is also heard by the Appellate Authority. The written submissions are filed. The same may be decided by the Authority. The respondents shall not take any action against the petitioner with regard to the Gut No.41 at village Rampuri without adhering to the principles of natural justice.

8. Writ Petition as such is disposed of. No costs.

9. The request of the learned counsel for the petitioner for extension of period of contract be considered by the authority on its own merits.

(SHRIKANT D. KULKARNI)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

Devendra/March-2021