

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 3691 OF 2021

IN

WRIT PETITION (ST) NO. 10021 OF 2021

Supriya Chandrakant Mahajan ... Applicant / Petitioner

Versus

The State of Maharashtra & Ors. ... Respondents

Mr.P.D.Patil for the Applicant / Petitioner.

Ms.M.P.Thakur, AGP for the State.

CORAM : S.J. KATHAWALLA &

MILIND N. JADHAV, JJ.

DATE : 3RD DECEMBER, 2021

P.C. :

1. On 4th May, 2021, this Court passed the following Order :

“1. Heard.

2. It is the case of the Petitioner that the Tipper No.MH-12-MV-3011 hired by the Petitioner (**the said Truck**) for transportation of the sand came to be seized on 3rd February, 2021 by the Tahsildar, Tahsil Office Malegaon, Nashik. It is submitted that the sand in the Truck is within the permissible limits and is not in excess as alleged in the Notice dated 3rd February, 2021. It is submitted that the authorities have till date not measured the sand lying in the said truck.

3. In view of the above, we pass the following order :

- i. Without prejudice to his rights and contentions, the Petitioner shall deposit an amount of Rs.2,42,100/- with the Respondent No.3 – Tahasildar, Tahsil Office Malegaon, Nashik within a period of twelve weeks from today.
 - ii. Upon deposit of an amount of Rs.2,42,100/- with the Respondent No.3 – Tahasildar, Tahsil Office Malegaon, Nashik, he shall arrange to get the sand lying in the said Truck measured and thereafter handover the said Truck to the Petitioner. The cost of removing the sand from the Truck and thereafter getting the same measured shall be borne by the Petitioner.
 - iii. The Additional Collector shall give a hearing to all the concerned parties on 12th May, 2021 at 12.00 noon through video conferencing and pass his orders within a period of two weeks thereafter.
 - iv. The Petitioner shall not create any third party rights in respect of the said truck or part with possession of the same until the Appeal is heard and for a period of 12 weeks thereafter if the order passed by the Additional Collector is against the Petitioner.
4. The Writ Petition is accordingly disposed of.”

2. Pursuant to the above Order, the Additional Collector, Malegaon, Nashik has after hearing the concerned parties passed an Order in favour of the Applicant / Petitioner. The Applicant / Petitioner has therefore become entitled to forthwith receive refund of Rs.2,42,100/-. However, despite written representation dated 16th June, 2021 to the Collector and Addition Collector, the said refund is not paid to her till date. She has therefore approached this Court on the ground that she is in urgent need of the said amount of Rs.2,42,100/- since her husband is suffering

from Cancer and is admitted in the Intensive Care Unit of Joshi Hospital, Pune and despite receipt of her written request dated 16th June, 2021, the Collector and / or Additional Collector is not releasing an amount of Rs.2,42,100/-, which she is entitled to in law.

3. In view thereof, whilst strongly deprecating the conduct of the concerned authorities, we direct the Collector / Additional Collector / Tahasildar to handover to the Petitioner the said refund amount of Rs.2,42,100/- on or before 6th December, 2021, failing which the Collector / Additional Collector / Tahasildar will not only be required to pay interest at the rate of 10% on the said amount but the Court will be constrained to initiate Contempt proceedings against them.

4. The above Interim Application is accordingly disposed off.

(MILIND N. JADHAV, J.)

(S.J. KATHAWALLA, J.)