

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Writ Petition No. 8300 of 2019

Javed Traders, Chandrapur, through Javed Siddiqui ...Petitioner.

Versus

The State of Maharashtra, through Revenue and Forest
Department, Mumbai and others. ...Respondents

Dr. Renuka S. Sirpurkar, Advocate for the Petitioner.

Shri Amit Madiwale, AGP for the Respondent - State

**CORAM : NITIN JAMDAR AND
ANIL S. KILOR, JJ.**

DATED : 27 JANUARY 2021

P.C.:

Heard learned Counsel for the parties.

2. The Petitioner has sought a direction to Respondent No.2-Collector, Chandrapur to extend the period of excavation of sand ghat at Mouza Pipri, Tq. Bhadrawati, Dist. Chandrapur for Wardha river bearing Survey No. 46, 47, 48/2, 49, 50, 52, 54, 55 by forty-five days or in the alternative to refund the amount as quantified in the Petition and the security deposit.

3. The methodology for permission to excavate sand is laid down in the Government Resolution dated 3 January 2018. The Petitioner was the highest bidder in the auction that took place in March

2019. The Petitioner entered into agreement on 18 March 2019 for excavation of sand.

4. The period for excavation under the agreement was 18 March 2019 to 17 June 2019. The Petitioner made a request for extension and the Petitioner was granted extension till 30 September 2019. The Petitioner made a representation on 8 September 2019 that even during the extended period, because water was released from the nearby dam, sand excavation was not possible and the extended period was not of any use to the Petitioner.

5. The learned Counsel for the Petitioner has rightly contended that the rights of the Petitioner even during the extended period would be governed by the Government Resolution dated 3 January 2018. This Resolution covers contingencies in case where the licensee is not able to excavate the sand during the contractual period. The Petitioner's grievance is that the representation of the Petitioner for extension or refund has not been replied to.

6. The learned Assistant Government Pleader referred to a clause in the agreement that no relief can be granted if excavation is not possible due to the level of water. However, we do not find such any specific reference to such condition in the Government Resolution dated 3 January 2018 under which the agreement is executed.

7. As regards the prayers for extension, considering the fact that the more than one and half year has passed since the term of the

agreement has expired, at this stage, it will not be possible for the Respondent to consider the application for extension also execution of fresh contracts are in the offing. As regards the claim for refund is concerned, the representation made by the Petitioner on dated 8 November 2019 does not claim any refund.

9. We dispose of the Petition by permitting the Petitioner to make an application to the authority, established under the Government Resolution dated 03 January 2018, in respect of the prayer of refund, within a period of two weeks.

10. Thereafter, the concerned authority will examine the claim of the Petitioner for refund in terms of the concerned Government Resolution or any resolution and communicate the decision to the Petitioner within a period of six weeks thereof.

11. The Writ Petition is accordingly disposed of.

[ANIL S. KILOR, J.]

[NITIN JAMDAR, J.]