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

903 WRIT PETITION NO.4578 OF 2021

**M/S PUSHPACHANDRA RETI CONTRACTOR, THR IT'S
PROPRIETOR KIRAN CHANDRAKANT MAID
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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Mr S. S. Wagh, Advocate for petitioner;
Mrs M. A. Deshpande, A.G.P. for respondents

**CORAM : RAVINDRA V. GHUGE
AND
S. G. DIGE, JJ.**

DATE : 26th April, 2022

PER COURT:

1. The issue raised in this petition is as regards whether the petitioner would be entitled for interest on the amount returned to him on pro-rata basis, for being unable to excavate sand from the sand ghat.

2. The sequence of events are as under :-

(a) On 15/04/2015, the petitioner was awarded the tender for excavation of the sand to the extent of 11307 Brass from the sand ghat, situated at village Koparli, Tq. and Dist. Nandurbar, after an E-tender process.

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(b) By 30/09/2015, the sand was to be excavated.

(c) The villagers opposed the excavation and hence, the petitioner was handed over the sand ghat under the direction of the Government on 01/10/2015 and was given 30 days to excavate the sand till 30/10/2015.

(d) The petitioner had already deposited Rs.97,60,777/- with the Collector, the moment he was selected as the highest bidder.

(e) On 30/10/2015, the District Collector took over the possession of the sand ghat from the petitioner. By that time, he was able to excavate 3221 Brass of sand.

(f) On 08/12/2015, he made a representation to the Hon'ble Minister for Revenue and was granted an extension of time until 31/03/2016 to excavate the remaining quantity of sand.

(g) On 20/01/2016, the sand ghat was re-allotted to the petitioner.

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(h) On 21/01/2016, Public Interest Litigation No.11/2016, filed by Tapi Bachav Shetkari Sangharsh Samiti, Koparli, was taken up by this Court and the order of the Minister, dated 08/12/2015, was stayed.

(i) On 13/04/2016, the Public Interest Litigation was disposed off, as being infructuous, as the extended period granted to the petitioner by the order dated 08/12/2015, had expired and the petitioner could not commence the excavation due to the orders of this Court.

(j) On 21/10/2016, the petitioner filed an appeal/representation to the Government, seeking further extension of time for excavation of sand or refund the amount on pro-rata basis, in the light of the Government Resolution dated 12/03/2013.

(k) On 01/06/2017, the Government rejected the representation of the petitioner for extension of time. However, no order was passed on the issue of refund of his amount on pro-rata basis.

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(l) On 04/05/2018, the petitioner preferred a review application before the Minister for Revenue, seeking refund of the pro-rata amount in terms of Clause 15 of the Government Resolution dated 12/03/2013.

(m) On 05/09/2019, the review application was partly allowed and the Government directed that, the petitioner would be entitled for refund from the tender amount deposited by him, on pro-rata basis.

(n) On 18/11/2019, the District Collector, Nandurbar, carried out a verification and informed the Revenue Department that the petitioner would be entitled for a refund of Rs.69,80,239.50 paise.

(o) On 03/11/2020, the Government accorded sanction for the payment of the refund amount.

(p) On 07/12/2020, the petitioner received Rs.60,04,162/- and on 18/01/2021, he received Rs.8,47,237/-. In all, he received Rs.68,51,399/- as against the sanction of Rs.69,80,239.50 paise.

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(q) The learned Advocate for the petitioner submits on instructions, that the difference in payment may be on account of some deductions and the petitioner does not raise an issue to that extent.

3. It is, thus, obvious that due to circumstances beyond the control of the petitioner, he was not able to excavate the entire quantity of sand. Nevertheless, the Government initially rejected the claim of the petitioner on 01/06/2017, seeking either extension of time or refund on pro-rata basis. As such, he would have been entitled for a refund as on 01/06/2017. As against that, he received a refund on 07/12/2020 and a minor remainder amount, on 18/01/2021.

4. By an order dated 09/12/2016, passed by this Court (Coram : V. M. Kanade and Ms. Nutan D. Sardesai, JJ.) in Writ Petition No.9249/2016, filed by Sukhkarta Building Material Vs. State of Maharashtra, at the Principal Seat, 9% p.a. interest on the refund of pro-rata deposit/tender amount, was granted.

5. By an order dated 01/04/2013, passed by this Court [Coram : A. S. Oka (as His Lordship then was) and Mrs. Mridula Bhatkar, JJ.], in Writ Petition No.1496/2013, filed by Laxman

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Sopan Lokhande Vs. State of Maharashtra and ors., this Court granted 8% p.a. interest for the period when the pro-rata payment became due and upto the date on which, the payment was made. By another order dated 09/07/2015, this Court [Coram : A. S. Oka (as His Lordship then was) and Revati Mohite Dere, JJ.], delivered in Writ Petition No.12089/2013, filed by Shivaji J. Chavan Vs. State of Maharashtra and others, an interest @ Rs.6% p.a. from the date of the filing of the petition, was granted.

6. We find that the petitioner was entitled for the refund of pro-rata tender amount on 21/10/2016, when he made an application for seeking refund. The said application was rejected by the Government after eight long months on 01/06/2017. To pass an equitable order, we are considering the date 01/06/2017 as the beginning of the period, for which, the petitioner would be entitled to pro-rata interest. The amount was ultimately paid to the petitioner on 07/12/2020. We are, therefore, considering the date, for easy calculation, as 01/12/2020, upto which the interest would be payable per annum.

7. Hence, this petition is allowed. The petitioner would be entitled for 6% p.a. interest on the amount actually paid to him i.e.

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Rs.68,51,399/- (rounded off as Rs.68,51,400/-) for the period from 01/06/2017 till 01/12/2020. The said interest amount would be paid to the petitioner by respondent No.1, on or before 30/06/2022.

(S. G. DIGE, J.)

(RAVINDRA V. GHUGE, J.)

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