

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

**WRIT PETITION NO. 3725 OF 2018**

Tushar Shivaji Thorat

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Mr. A. B. Kharosekar, Advocate for the Petitioner.

Mr. S. K. Tambe, AGP for Respondent Nos. 1 to 4.

**CORAM :   R. D. DHANUKA &  
              S. G. MEHARE, JJ.**

**DATED :   28<sup>th</sup> MARCH 2022.**

**PER COURT:-**

.       By this petition filed under Article 226 of the Constitution of India the petitioner prays for a writ of certiorari or any other appropriate writ, order of direction in the nature of writ of certiorari to quash and set aside the order dated 04.02.2016 passed by the Revenue and Forest Department, Mantralaya, Mumbai. The petitioner also prays for an order and direction against the respondent No. 1 and their authorities to release the amount of Rs. 87,00,000/- deposited by the present petitioner with respondent No. 2. The petitioner also seeks refund of the said amount on the ground that petitioner could not excavate sand as was expected.

2. The learned counsel for the petitioner does not dispute that there is alternate remedy available against the impugned order in accordance with the provisions of the Government Resolution dated 12.03.2013.

3. We are thus not inclined to entertain this petition on the ground that alternate remedy is not exhausted by the petitioner.

4. So far as judgment of the Hon'ble Supreme Court in case of *Popatrao Vyankatrao Patil Vs. The State of Maharashtra and others* delivered on 14.02.2020 in Civil Appeal No. 1600 of 2020 is concerned, the facts before the Hon'ble Supreme Court were totally different. The possession was not handed over to the petitioner therein.

5. Writ petition is disposed of in aforesaid terms. No order as to costs.

6. If, any alternate remedy is availed by the petitioner, the same shall be decided on its own merits. It is made clear that, this Court has not expressed any views on the merits of the matter.

7. The learned counsel for the petitioner states that his client will file appeal as provided under the Government Resolution dated 12.03.2013 within a period of ten days from today.

8. The appellate authority shall dispose of the appeal filed by the petitioner expeditiously.

**( S. G. MEHARE )**  
**JUDGE**

**( R. D. DHANUKA )**  
**JUDGE**

RS.B.