

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

917 WRIT PETITION NO. 4592 OF 2022

M/s. SSJK Infra, **...PETITIONER**
Ground Floor, D. No. 40-9-61,
Sub-Registrar Office Road,
Kalanagar, Vijaywada 520 010
Through its Authorised Person,
Mr. P. Shri Hari,
Age-51 years, Occu-Business,
R/o. H. No. 2-21, Hangara Faram (Post),
Kotagiri Mandal, Nizambad (Andhra Pradesh)

VERSUS

1. The State of Maharashtra **...RESPONDENTS**
Through Secretary,
Forest And Revenue Department,
Mantralaya, Mumbai-32
2. The Collector for District Nanded,
Tq. & Dist. Nanded

Mr. Shailesh P. Brahme, Advocate for the petitioner
Mr. S. G. Karlekar, AGP for the respondents/State

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

DATE : 04th May, 2022

JUDGMENT:

1. Rule. Rule made returnable forthwith.
2. The learned AGP waives service of notice

for the respondents/State.

3. By this petition filed under Article 226 of the Constitution of India, the petitioner prays for writ of mandamus directing respondent No.2 to refund the amount of Rs. 25,20,150/- alongwith 12% interest from the date of deposit of amount till realization within stipulated period.

4. Respondent No.2 had issued tender notice of 16 sand spots as per policy dated 28-01-2022. On 17-02-2022, the petitioner participated in the auction proceeding and deposited 25% of the bid amount i.e. Rs. 25,20,150/- for two sand spots i.e. Shelgaon-1 and Shelgaon-2. On the next date the corrigendum came to be issued by the respondent whereby suspending the auction of the sand spots. The respondents have admittedly not issued any program. The learned counsel for the petitioner states that since the respondents have already suspended the said auction by the decision dated 04-03-2022 and Nagpur Bench of this Court has granted stay from proceeding with auction till 09-06-2022 and since the period of auction under the contract if would have been awarded, same would have been expired on 10-06-2022, the respondents cannot be allowed to retain the earnest money deposited by the petitioner alongwith tender.

5. The respondents have not disputed that the respondent had issued corrigendum whereby suspending the auction of the sand spots in question for which the petitioner had submitted its bid. The respondent have not disputed that Nagpur Bench of this Court has granted stay for the proceeding with the auction till 09-06-2022. Even if the contract would have been awarded to the any of the successful bidder, the contract even otherwise would have come to an end on 10-06-2022.

6. In our view the respondents thus, cannot be allowed to retain the earnest money deposited by the petitioner whether on the ground that the petitioner was unsuccessful bidder or in view of the corrigendum issued by the respondents whereby suspending auction for sand spots for which the petitioner had applied by submitting its bid. In our view, the respondents have illegally withheld the payment made by the petitioner. Accordingly, we pass following order:

ORDER

- i. Respondent No.2 is directed to refund the amount of Rs.25,20,150/- to the petitioner within four weeks from today

without fail. If the amount is not refunded within stipulated period, the respondents will be liable to pay interest at the rate of 12% from the date of deposit till realization.

ii. The writ petition is allowed in aforesaid terms.

iii. Rule is made absolute.

iv. No order as to costs.

v. Parties to act upon authenticated copy of this order.

[S. G. MEHARE, J.]

[R. D. DHANUKA, J.]