

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO.8105 OF 2022

NARENDRA ARYA SHIKSHAN PRASARAK MANDAL THROUGH ITS  
SECRETARY SHANKAR RAMHARI GORE  
VERSUS  
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND  
OTHERS

Mr.D.S.Mali, Advocate for the petitioner.  
Mr.S.G.Sangle, AGP for the respondent/State.

( CORAM : RAVINDRA V. GHUGE AND  
ARUN R. PEDNEKER, JJ.)

DATE : AUGUST 5, 2022

PER COURT :

1. The petitioner is a private Education Society, which has put forth prayer clause B & C as under :-

*"B. By issuing writ of mandamus or any other order or directions in the like nature, direct the respondent Nos. 3 and 4 to take all action including penal action for the illegal excavation of soil by the respondent No.5 for the illegal excavation of soil from land Gat No.459, 460 and 461.*

*C. By issuing writ of mandamus or any other order or directions in the like nature, direct to respondent No.3 to act upon directions issued by Additional Collector (Mines and Minerals Department) Osmanabad dated 03.06.2020 and 17.02.2022 (Exhibit K and Exhibit M) and direct*

*to respondent No.3 for ETS measurement of the excavated soil from the land Gat Nos. 459, 460 and 461 illegally by respondent No.5 and to impose the penalty or to collect royalty from the respondent No.5 as per the ETS measurement."*

2. A categoric statement on specific instructions and pleadings is made that the petitioner owns land Gat Nos. 459, 460 and 461. There is no confusion as regards the demarcated boundaries. There is no dispute as regards the title over the said land. Respondent No.5, a private business man, has surreptitiously excavated 11,806 brass soil from the said lands. A *panchnama* was carried out by the Tahsildar and the Talathi and the quantum of soil excavated is quantified.

3. The petitioner submits that though he is aware that a writ would not be issued against a private individual considering Article 12, he submits that he has placed 2 representations before the Tahsildar and the Police Inspector dated 18.05.2022 and 22.05.2022. Inspection has been done and panchnama is carried out. Further action is not initiated.

4. In view of the above, this petition is disposed off.

5. We expect respondent No.3 to follow the due procedure laid down in Law and carry out such exercise in accordance with his jurisdiction and as is permissible in Law, expeditiously. In the event, the case of the petitioner turns out to be a false complaint, respondent No.3 can proceed to saddle heavy costs upon the petitioner.

( ARUN R. PEDNEKER, J. )

( RAVINDRA V. GHUGE, J.)