

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

**WRIT PETITION NO.4678 OF 2017**

Amit Bhagwan Gedam,  
 Aged 30 years, Occ: Business,  
 R/o Beena, Tehsil Kamptee,  
 District Nagpur.

..... **PETITIONER**

**...V E R S U S...**

1. State of Maharashtra, through its Secretary, In the Ministry of Revenue and Forest, Mantralaya, Mumbai-32.
2. District Collector, Bhandara.
3. Additional District Collector, Bhandara.

..... **RESPONDENTS**

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 Mr. V. S. Kukday, Advocate for Petitioner.  
 Mr. K. L. Dharmadhikari, AGP for Respondents 1 to 3/State.  
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**CORAM:**     **ROHIT B. DEO, J.**  
**DATE:**       **22<sup>nd</sup> FEBRUARY, 2022.**

**ORAL JUDGMENT:**

Heard. **Rule.** With consent, the petition is finally heard.

2. The petitioner, who successfully bid for the right to excavate sand from Bhojapur sand ghat situated in the District of

Bhandara is aggrieved by order dated 23.06.2017 rendered by the Additional Collector whereby the security deposit of Rs.21,30,520/- (Rupees Twenty One Lakhs Thirty Thousand Five Hundred Twenty) is forfeited on the premise that the terms and conditions of the agreement dated 17.10.2016 are violated.

3. In the context of the order which I propose to pass, it would not be necessary to reproduce the narrative and the counter narrative in detail. Suffice it to note that show cause notice dated 06.06.2017 was issued to the petitioner alleging violation of the terms and conditions of the agreement. The substratum of the show cause notice is that during the visit and inspection of Tahsildar, Paoni and Talathi to the sand ghat on 25.04.2017, it was noticed, that contrary to the terms and conditions a Poclain machine was engaged in excavation of land. It is further alleged that on noticing the government officers, the driver and others fled. It is then alleged that the sand ghat was inspected on 23.05.2017 by deploying drone and it was again noticed that the petitioner was using a Poclain machine to excavate sand and the excavation far exceeded the permissible depth.

4. The petitioner submitted reply pointing out that he is

not provided the material on the basis of which the notice is predicated *inter alia* the video clip. On facts, the petitioner asserted that no violation of the terms and conditions of the agreement is committed and Poclain machine is not used for excavation. This assertion is with a caveat that the truck driver may have used the machine, if at all, without the authority and knowledge of the petitioner.

5. By the order impugned, the authority has held, relying on the report of the Tahsildar and the drone inspection, that conditions 51 and 52 of the agreement and clause 12 (B) of the Government Resolution dated 12.03.2013 are breached.

6. In my considered view, the matter will have to be remitted, and I so hold since, the petitioner has not been supplied the relevant material *inter alia* the drone video clip nor is there any application of mind to the issue whether the alleged violation calls for the forfeiture of the entire security deposit.

7. While I need not make any definite observation since the authority will have to re-visit all issues arising, I note the submission of the learned counsel Mr. Kukday that in similar

matters the Collector has rested with forfeiture of the bank guarantee and that the security deposits are not forfeited. In support of the said submission, certain orders are placed on record in which I need not delve deeper.

8. The order impugned is quashed.

9. The respondent 3 shall after giving an opportunity to the petitioner to file additional submissions, and additional material, if so advised, and after hearing the petitioner, pass fresh order giving due consideration to the observations made *supra*.

10. The petition is partly allowed in the aforestated terms.

**JUDGE**

NSN