

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

**WRIT PETITION NO. 5390 OF 2023
WITH
CIVIL APPLICATION NO. 6184 OF 2023**

Shri Balaji Minings
Through its Proprietor .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Sachin S. Deshmukh, Advocate for the Petitioner.
Shri V. D. Hon, Senior Advocate i/by Shri S. K. Tambe, A.G.P. for
the Respondent Nos. 1 to 3.

**CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRADE, JJ.**

DATE : 21ST JUNE, 2023.

PER COURT :

1. This matter was heard for several hours on 16.06.2023, 19.06.2023, 20.06.2023 and today. When we formed a *prima facie* opinion that the Petitioner has defaulted to the tune of Rs. 73,47,249/- (Rs. Seventy Three Lakhs Forty Seven Thousands Two Hundred Forty Nine only), we expressed in open Court that the Petitioner will have to deposit this amount within a week with the Government and tender an affidavit that if eventually it is found that his claim is vexatious, he would reimburse the losses caused to the Government.

2. The learned advocate for the Petitioner submits that the

Petitioner is present in the Court and has instructed him to withdraw this petition. He has also instructed that he will not proceed with the appeal that is filed on 27.09.2022. As such, the said appeal stands disposed off.

3. It is obvious that after the Petitioner was granted *ad-interim* relief by order dated 08.05.2023 during the vacation hearing, the further tender process of the State Government was stalled.

4. The learned advocate for the Petitioner submits that he may consider moving a suit for damages against the State. If this be so, the concerned Court entertaining the suit would also take into account that the petitioner is alleged to be a defaulter and because of the defaults caused, the contract has been terminated. We leave open all contentions of the litigating parties.

5. With the above observations, this petition is **dismissed as withdrawn**.

6. Pending **civil application** does not survive and **stands disposed off**.

7. We make it clear that if the Petitioner moves any other Court or Tribunal or an Arbitrator or any other Authority or any Forum, seeking a stay to the tender process, the said prayer shall

not be entertained in view of the dismissal of this petition.

8. Learned senior advocate/Special Counsel for the State of Maharashtra prays that the ad-interim order dated 08.05.2023 be vacated forthwith. Needless to state, the same stands vacated.

[Y. G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]

bsb/June 23