

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

906 WRIT PETITION NO.10969 OF 2023

MS R M KATORE AND CO. THROUGH IT'S PARTNER AND OTHERS  
VERSUS  
THE STATE OF MAHARASHTRA THROUGH SECRETARY AND OTHERS

Mr.A.S.Bajaj, Advocate for the Petitioners.  
Mr.P.K.Lakhotiya, AGP for the Respondent/State.

( CORAM : RAVINDRA V. GHUGE AND  
Y. G. KHOBRAGADE, JJ.)

DATE : SEPTEMBER 13, 2023

PER COURT :

1. Leave to correct the prayer clause.
2. The Petitioners have put forth prayer clauses B, C and D as under :-

*"B. The Respondent authorities may kindly be directed to release the JCB Vehicle bearing registration No.MH-12-JK-4435 and Tipper bearing registration No.MH-17-AG-1266.*

*C. The notice dated 07.07.2023 issued by Sub Divisional Officer, Sangamner, Sangamner Division and order dtd. 17.07.2023 passed by Sub Divisional Officer, Sangamner Division, Sangamner, Dist.Ahmednagar, in Pra.Kra/Ka-vi/Mineral Extraction/20/2023 may kindly be quashed and set aside.*

*D. Pending hearing and final disposal of the present Writ Petition, the Respondent Authorities may kindly be directed to release the JCB Vehicle bearing registration No.MH-12-JK-4435 and Tipper bearing Registration No.MH-17 AG-1266."*

3. This Matter was heard for quite some time. There are several disputed issues. Nevertheless, the learned Advocate for the Petitioners submits that this Court may impose any appropriate condition for the purposes of releasing the JCB, which is being used in the construction of an elevated storage reservoir (ESR) under the Jal Jeevan Mission at *Chandanapuri* and 2 other villages under the Water Supply Scheme. The photographs of the ESR site are placed on record.

4. It is undisputed that the JCB vehicle bearing registration number MH-12-JK-4435 was found at a place in the vicinity of the *Oodha (ओढा)*, which is a sand ghat. According to the Revenue Authorities, on the same day, a tipper was located with illegally excavated sand. The JCB was working in co-ordination with that tipper. These aspects are denied by the Petitioners on the ground that the impugned notice issued to him does not bear out these contentions. Nevertheless, he is agreeable to approach the competent authority i.e.

the Additional Collector, Ahmednagar.

5. In view of the above, we direct the Petitioners to deposit 50% of the amount, which would be 3,75,000/- (7,50,000/- is the penalty amount) with the Additional Collector. As soon as the amount is deposited, the Additional Collector would pass an appropriate order for releasing the JCB vehicle. All the issues, including of the tipper, are left open to be considered in the proceedings that the Petitioners would now be lodging with the Additional Collector.

6. Needless to state, the money shall be deposited while lodging the proceedings in order to enable the Authorities to pass an order of releasing the JCB vehicle. All contentions of the litigating parties are kept open. The deposit of the amount would be subject to the result of the proceedings.

7. **Writ Petition is disposed off** with the above directions.

( Y. G. KHOBRAGADE, J. )

( RAVINDRA V. GHUGE, J.)