

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 6267 OF 2024

Bhartesh Construction Company

.. Petitioner

Versus

The District Collector, Raigad & Ors.

.. Respondents

Mr. Rafique Ahmed Dada a/w Yuvraj Narvankar, Prashant Bhavake and Satish Kunkekar for the Petitioner

Mr. A. I. Patel, Addl. G.P. a/w Tanaya Goswami, AGP for the Respondent-State.

**CORAM: B. P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.**

DATE: MAY 07, 2024

P. C.

1. The above Writ Petition is filed seeking to challenge the Revenue Recovery Certificate dated 30th September, 2019 (the “**impugned RRC**”) issued by Respondent No.1-District Collector against the Petitioner.

2 The ground on which quashing of the impugned RRC is sought is that the District Collector has no power or jurisdiction to issue

the impugned RRC because the mining being carried out by the Petitioner is with reference to a major mineral (Bauxite) and which is covered under the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 (for short the “said Act”). It is the case of the Petitioner that once this is the case, then, under Section 21 (5) of the said Act, any levy on the miner would have to be done by the Director of Geology and Mining, Maharashtra State, and the District Collector has absolutely no power and/or jurisdiction in that regard.

3 When the above matter had come up before this Court on 23rd February, 2024, we had noted the submissions made by Mr. Dada that for the alleged violations committed by the Petitioner, the concerned Authority under Central Government has, in fact, levied penalties on the Petitioner to the extent of Rs.4,58,08,675/-, and which has been paid by the Petitioner to the said Authority. On that date, Mr. Dada further pointed out that the Director of Geology and Mining has written a letter to the District Collector asking him to revoke the impugned RRC and allow the Petitioner to continue their mining operations.

4 Having heard Mr. Dada on the aspect of ad-interim relief, we were satisfied that a case was made out for the same and hence granted ad-interim relief in terms of prayer clause (c) of the application which was effectively to stay the impugned RRC. On that date, we have also granted time to the Respondents to file an affidavit in reply, if any.

5 Today when the matter is called out, Mr. Patel has tendered an affidavit in reply dated 6th May, 2024. Paragraphs 7 and 8 of this affidavit read thus:-

“7. I submit that the Director, Directorate of Geology and Mining, Maharashtra State issued demand notice dated 01.01.2024 in regards to dues raised in CAG report of the year 2014-15 para 7.2.2.7 (a) (i) and 7.2.2.7 (b) to petitioner to pay dues of Rupees 4,58,08,675/- by exercising powers contemplated under Section 21(5) of the MMDR Act as well as guideline laid down by Hon’ble Apex Court vide judgment and order dated 02.08.2017 passed in Writ Petition No. 114 of 2014. Hereto annexed and marked as Exhibit-5 is the copy of said demand notice dated 01.01.2024.

8. Thereafter, I submit that the petitioner paid dues as per said notice issued by the Director, Directorate of Geology and Mining, Maharashtra State and informed Respondent No.3 vide letter dated 04.05.2024. Hereto annexed and marked as Exhibit-6 is the copy of said letter dated 04.05.2024. If any question arises in the future regarding the recovery of due RRC amount with regard to the points raised by the office of the Comptroller and Auditor General of India in report of the year 2014-15, the office of the

District Collector, Raigad will not be responsible since the office of Collector Raigad has recovered only said amount in letter dated 01.01.2024 given by Director, Directorate of Geology and Mining, Nagpur, Maharashtra state. Hence if any amount is pending in regards to RRC must be intimated to this office by Director, Directorate of Geology and Mining, Nagpur, Maharashtra state.

6 In light of what is stated in the aforesaid affidavit, we find that the stand taken by the Petitioner is accepted by the State. In these circumstances, the impugned RRC dated 30th September, 2019 is hereby quashed and set aside. The consequence of the said quashing is that the Petitioner shall be permitted to carry on with its mining operations in accordance with law.

7 The Writ Petition is disposed of in the aforesaid terms. However, there shall be no order as to costs.

8 This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[SOMASEKHAR SUNDARESAN,J.]

[B. P. COLABAWALLA, J.]