
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO.12692 OF 2024

M/s. Tattva & Mittal Lifespaces Pvt. Ltd.

...Petitioner

Versus

The State of Maharashtra & Ors.

...Respondents

Mr. Shubham Gangan i/b. Harshad Sathe, *Advocate for
Petitioner.*

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

DATE : APRIL 25, 2024

P. C.

1. Mentioned. Not on Board.
2. The above praecipe has been moved for Speaking to the Minutes of Order dated 23rd April, 2024.
3. The learned counsel appearing on behalf of the Petitioner submitted that the name of the Petitioner has been misspelled. The word "***Tattya***" should be substituted with the word "***Tattva***".

4. Considering the aforesaid submission, in the Order dated 23rd April, 2024, in the cause title, the word ***“Tattya”*** shall be substituted with the word ***“Tattva”***.

5. No other correction is sought. The correction shall be carried out in the original order as well as in the copy uploaded on the server.

6. 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.]

For the sake of convenience the order dated 10th November, 2023 (as corrected) is reproduced hereunder:-

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
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M/s Tattva & Mittal Lifespaces Pvt Ltd ...Petitioner

Versus

State of Maharashtra & Ors ...Respondents

Mr. Vishal Kanade, *a/w Shyam Sunder Patil, Mumtaz Ahmed Yonus, i/b Harshad Sathe, Advocates for the Petitioner.*

Mr. A.L. Patki, Addl. GP, *for Respondent-State.*

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

DATE : APRIL 23, 2024

PC :

1. The above Writ Petition is filed seeking to challenge the impugned order dated 12th January, 2024 passed by Respondent No.2. By the impugned order, the Petitioner is directed to pay a penalty of Rs.85,23,071/- for unauthorized mining/transportation of 1924.4 brass of minor minerals and a fine of Rs.11,54,640/- (aggregating to a total of Rs.96,77,711/-).

2. It is not in dispute that in the present case, a show cause notice dated 1st January, 2024 was issued to the Petitioner and pursuant to which a hearing was given on 4th January, 2024. After the said hearing, a site inspection was carried out on 5th January, 2024. Without giving an opportunity to the Petitioner to deal with the site inspection report, the impugned order has been passed by Respondent No.2 on 12th January, 2024, and that too relying upon that very same site inspection report.

3. It was the case of Mr. Kanade, the learned Counsel appearing on behalf of the Petitioner, that the impugned order could not rely upon the site inspection report which was carried out after a hearing was given to the Petitioner. This itself would amount to a breach of principles of natural justice as the Petitioner was never given an opportunity to deal with the site inspection report. This being the case, he submitted that on this limited ground alone the impugned order has to be set aside and the matter can be remanded back to Respondent No.2 for a fresh hearing after giving an opportunity to the Petitioner to deal with the site inspection report dated 5th January, 2024.

4. Mr. Patki, the learned AGP appearing on behalf of the State, fairly did not dispute this factual position. He submitted that it is correct that the site inspection was carried out on 5th January, 2024, and it is on the basis of this site inspection report that penalty and a fine has been levied on the Petitioner.

5. Having heard the learned Counsel for the Parties at some length and having perused the papers in the Writ Petition, we find that impugned order cannot be sustained in light of the fact that it relies upon a site inspection report which was carried out after a hearing was given to the Petitioner. This, to our mind, would clearly

be a breach of the principles of natural justice, which would make the impugned order vulnerable to challenge.

6. In these circumstances, we set aside the impugned order dated 12th January, 2024. We direct that Respondent No.2 shall give a fresh hearing to the Petitioner after providing a copy of the site inspection report and give an opportunity to the Petitioner to deal with the same. Once this process is undertaken, Respondent No.2 is free to pass a fresh order.

7. It is needless to clarify that since the order dated 12th January, 2024, is set aside, any consequential actions taken pursuant there to, are also quashed and set aside.

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

9. 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.]