



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
WRIT PETITION NO. 421 OF 2024

M/s. G.S.D. Industries, Nagpur

Vs.

The Chief Engineer, Public Works Department, Government of Maharashtra, Mumbai
& Ors

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. M.V. Samarth, Senior Advocate a/by Mr. R.M. Fating,
Advocate for petitioner.
Mrs. Mruanl Naik, AGP for respondent/State.
Mr. A.R. Fule, Advocate for intervenor/applicant.

CORAM : N.R. BORKAR, J.

DATE : 26.11.2024.

This petition takes exception to the order dated 23.10.2023 passed by the respondent No.3 – Additional Collector, Aheri, District – Gadchiroli.

2. By order dated 29.12.2022 respondent No.5- - the Tahsildar, Bhamragad directed the present petitioner to pay Rs.1,01,90,300/- towards penalty for unauthorised excavation and transportation of 563 brass of sand. By order dated 6.6.2023, the respondent No.4- Sub-Divisional Officer, Etapalli had dismissed the appeal filed by the present petitioner against the order of respondent No.5. Against the order of respondent No.4, the petitioner had filed appeal before the respondent

No.3. By the order impugned, respondent No.3 has dismissed the appeal filed by the petitioner.

3. I have heard the learned senior counsel for the petitioner and the learned AGP for the respondent/State.

4. The learned senior counsel for the petitioner submits that the sand in question was excavated from sand ghat Yechli, which was allotted to the petitioner in auction to excavate 2120 brass of sand. It is submitted that the orders impugned are based on surmises and conjunctures. It is submitted that the orders impugned therefore cannot be allowed to stand.

5. On the other hand, the learned AGP has supported the orders impugned.

6. It is not in dispute that Yechli sand ghat was allotted to the petitioner, in auction. According to the petitioner, the sand in question was excavated from the said ghat. Respondent No.5 – the Tahsildar has however, held that the sand in question was excavated from some other sand ghat and not from Yechli sand ghat. Respondent No.5 has drawn the said conclusion on the basis of spot inspection report

submitted by the Circle Officer. However, admittedly monthly excavation statements were submitted to respondent No.5. If false statements were submitted then it is not understood as to why no verification was done at that time. The issue before the authorities was, whether the sand in question was excavated from Yechli sand ghat or some other sand ghat. However, respondent No.4 has dismissed the appeal on the ground that the petitioner has excavated 1604 brass of sand during prohibited period from 10.6.2022 to 30.9.2022. Again it is not understood as to why no action was taken when the statements showing the excavation during the prohibited period were submitted.

7. Considering the overall facts and circumstances, the matter will have to be remanded back for deciding it afresh. The orders impugned are set aside. The matter is remanded back to respondent No.5 the Tahsildar for deciding it afresh.

8. The petition is disposed of in the aforesaid terms. The application for intervention does not survive and the same is disposed of accordingly.

(N.R. BORKAR, J.)