IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10754 OF 2024

M/s. Pingle Builders Pvt. Ltd.,
F-1/5, Zilla Parishad Complex,
Mahatma Gandhi Marg,
Nashik - 422 401
Through its Company Attorney
Shri Digamber Anandrao Pingle

..PETITIONER

VERSUS

1. The State of Maharashtra
   Through its Upper Secretary
   Revenue and Forest Department,
   Mantralaya, Mumbai

2. The Hon'ble Minister,
   Revenue Department,
   Mantralaya, Mumbai.

3. The Collector, Ahmednagar.

4. The District Mining Officer,
   Collectorate, Ahmednagar.

5. The Tahsildar, Rahuri,
   Tq. Rahuri, Dist. Ahmednagar.

..RESPONDENTS

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Mr. Tushar C. Shinde h/f Mr. C.K. Shinde, Advocate for the petitioner
Mr. B.B. Bhise, AGP for the respondent/State.

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CORAM	**:**	**ROHIT W. JOSHI, J.**
RESERVED ON	**:**	**21st JULY, 2025**
PRONOUNCED ON:		**11th AUGUST, 2025**

JUDGMENT :

The petitioner was allotted a work for, “provision of certain work, services for additional infrastructure at KK Range (AF), Ahmednagar, vide work order dated 02.05.2012 issued by the Garrison Engineer (hereinafter referred to as "GE", Military Engineer Services, Ahmednagar. The GE had made correspondence with Collector, Ahmednagar requesting to provide sand spots for excavation of sand for execution of the said work. Vide letter dated 14.03.2013, six sand spots were allotted for the work. Pursuant thereto, following orders were issued allotting sand spots to the petitioner, without auction, for execution of the aforesaid work :-

Sr. No.	Date	Description of location	Quantity	Period
1.	21.03.2013	Sand Spot No.1 at village Aradgaon-Mula River Bed	7380 brass	22.03.2013 to 31.07.2013
2.	25.04.2013	Sand Spot No.1 at village Chikalthan-Mula River Bed	4800 brass	26.04.2013 to 31.07.2013
3.	25.04.2013	Sand Spot No.3 at village Chikalthan-Mula River bed	6750 brass	26.04.2013 to 31.07.2013

2. In the Gram Sabha of village Kendal (Bk) resolutions were passed on 03.04.2013 and 04.06.2013, whereby it was decided that mining/excavation of sand should not be allowed due to drought like situation and adverse environmental effect. The first resolution dated

03.04.2013 pertains to village Aradgaon. The second resolution dated 04.06.2013 records that excavation/mining of sand was already done at the sand deposit located within the limits of Gram Panchayat, Kendal (Bk) upto village Aradgaon, further excavation should not be allowed. The Gram Panchayat had also made correspondence with Tahsildar in this regard.

3. In this backdrop, the petitioner issued a communication dated 21.06.2013 to the Collector, Ahmednagar intimating that due to difficulty in making a provision for approach road, the mining/excavation of sand at sand spot nos.1 and 3 in village Chikalthan was not commenced by the petitioner. The petitioner informed that it had purchased private lands in order to make provision for approach road and intending to start the work of mining/excavation within a period of 4-5 days from the date of issuance of communication dated 21.06.2013. The petitioner also informed that work of illegal mining of sand was going on at the sand spots and despite the complaints to the Tahsildar, no action was being taken. In this communication dated 21.06.2013, there is no reference to any

adverse resolution by the Gram Panchayat or any act of obstruction by villagers.

4. Similarly, the petitioner issued another communication dated 06.07.2013 to the Collector informing that due to problem in making the provision for approach road as also due to serious objections by local villagers, work of mining/excavation of sand from sand spot nos.1 and 3 at Chikalthan had not commenced. The contention with respect to alleged obstructions created by villagers is made for the first time in this communication dated 06.07.2013.

5. As mentioned above, permission for mining of sand was granted only upto 31.07.2013. In view of the above, the revenue authorities had taken possession of both the sand spots from the petitioner on 30.07.2013. Perusal of the letter dated 03.08.2013 issued by the Tahsildar to the Collector shows that the Revenue Inspector had taken possession of both the sand spots on 30.07.2013 and further that measurement with respect to excavation/mining of sand could not be ascertained since the river bed was filled with water. It

appears that Tahsildar had issued another communication dated 10.02.2014 to the Collector stating that at Chikalthan sand spot no.1, the petitioner had excavated 159 brass of sand out of sanctioned 4800 brass and likewise at Chikalthan sand spot no.3, the petitioner had excavated 800 brass of sand out of sanctioned 6750 brass. Proposals were forwarded to the State Government to consider refund of balance amount to the petitioner or to allot alternate sand spots for equivalent amount. These proposals are forwarded on 23.06.2015 and 21.08.2015.

6. Perusal of documents filed with the petition will indicate that the petitioner made representations to the Secretary in the Department of Revenue and Forest and the Hon'ble Minister in the said Department for release of amount on 26.02.2018 and 14.05.2018 respectively.

7. Respondent No.1 issued order dated 06.03.2019 disallowing the request for refund of amount on the ground that the petitioner was not prevented by any Government Officials from continuing with the work of mining/excavation

and that for the entire period, the sand spots were in possession of the petitioner and likewise there was no natural calamity during the relevant time on account of which the petitioner could not mine/extract the requisite quantity of sand. It is observed that it was responsibility of the petitioner to mine/excavate the requisite quantity of sand within the stipulated period.

8. The petitioner has made application for review of the aforesaid order dated 06.03.2019. Although, the date of filing is not clear from the record, the application for review, is dated 04.12.2023. The application for review is titled as "Appeal". The said application is rejected vide order dated 07.06.2024 passed by the Hon'ble Minister (Revenue). The Hon'ble Minister has observed that the resolution of Gram Sabha on which reliance was placed by the petitioner was not pertaining to the sand spots in question, and therefore, the contention regarding inability to mine/extract requisite quantity of sand within the stipulated period was liable to be rejected. It is also observed that in the earlier correspondence made with the Collector, the petitioner had not referred to obstruction from villagers as a ground for inability to

undertake the work of mining. The Hon'ble Minister has further observed that the petitioner had failed to make out any case for review under Section 258 of the Maharashtra Land Revenue Code, in as much as, the petitioner failed to point out any error apparent on the face of record and likewise also failed to produce any additional evidence, which could not be produced before passing of the order dated 06.03.2019. Thus, the application for review is rejected on merits as well as on the ground that the application was beyond the scope of Section 258 of M.L.R. Code.

9. The learned counsel for the petitioner places reliance on the Government Resolution dated 12.03.2013 and particularly, upon clause 17C(15) of the said Government Resolution to contend that the respondents are liable to refund the amount of sand, which could not be excavated by the petitioner since excavation could not be done due to serious objections and obstructions by the villagers.

10. Perusal of the record will indicate that the petitioner had addressed two letters to the Collector stating

reasons for not commencing mining activity. The first letter dated 21.06.2013 refers to problem of approach road for accessing sand spot. This communication does not refer to any resolution of Gram Sabha or any act by the villagers raising objection to mining activity. It will be pertinent to state that as per the petitioner mining activity had not commenced till 21.06.2013. Subsequent communication dated 06.07.2013 reiterates the problem of approach road and also refers to objection raised by Gram Panchayat. However, perusal of the Gram Sabha resolutions filed on record by the petitioner will demonstrate that sand spots at village Chikalthan are not specifically referred in the said resolutions. The said resolutions are passed in Gram Sabha of Gram Panchayat Kendal (Bk). There is no averment in the petition or in the review application that village Chikalthan is situated within territorial limits of Gram Panchayat, Kendal (Bk).

11. In view of the aforesaid, there is no reason to take different view of the matter than the view taken by the Hon'ble Minister that Gram Sabha resolutions relied upon by the petitioner do not appear to be pertaining to sand spots at village Chikalthan.

12. Finding by the Hon'ble Minister that the petitioner had failed to make out any ground for review of the earlier order under Section 258 of the M.L.R. Code is also just, legal and proper. All the documents filed on record by the petitioner are pertaining to period prior to 06.03.2019. The petitioner has not produced any additional evidence in support of its case. Likewise, the petitioner has failed to point out any error apparent on the face of record in the earlier order dated 06.03.2019. The finding by the Hon'ble Minister that the application does not satisfy the ingredients of Section 258 of the M.L.R. Code does not warrant any interference.

13. Apart from this, it must also be stated that the tenure of mining permission expired on 31.07.2013. The possession of sand spots was returned by the petitioner on 30.07.2013. The two office notes forwarded by the office of the Collector seeking appropriate instructions regarding refund/allotment of alternate sand spot are dated 23.06.2015 and 21.08.2015. Thereafter, the petitioner has made representations for refund on 26.02.2018 and 14.05.2018. The initial order rejecting the request for refund is passed on

06.03.2019. The application for review is dated 04.12.2023. The date of filing of review is not discernible from record, however, it has to be after 04.12.2023. There is delay of over three years and nine months in filing review. It is merely stated that review could not be filed due to Covid-19 lock-down. Covid-19 lock-down was imposed in March, 2020. The Hon'ble Supreme Court has extended the period of limitation on account of Covid-19 lock- down till 30.06.2022. Thus, apart from the merits, the petition is also liable to be dismissed on account of unexplained delay of around five years in making initial representations for refund and thereafter a period of over three years and nine months in filing application for review. The petitioner has filed the present petition on 22.08.2024 seeking refund with respect to a transaction which had come to an end on 31.07.2013. The petition is also liable to be dismissed on account of delay and laches.

14. In view of the aforesaid, the petition is dismissed with no order as to costs.

[ROHIT W. JOSHI, J.]

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