



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO.111 OF 2024

Nandakumar Waman Pawar, & Anr.

....Petitioners

Versus

State of Maharashtra, & Ors.

....Respondents

Mr. Zaman Ali, for Petitioners.

Ms. Neha Bhide, Govt. Pleader with Mr. O.A. Chandurkar, Addl. GP & Ms. G.R. Raghuwanshi, AGP for State, Respondent No. 1, 2, 5, 6, 10 & 11.

Ms. Jaya Bagwe, for MPCB, Respondent No. 3 & 4.

Mr. Mohamedali M. Chunawala, for Union of India, Respondent No. 7.

Ms. Rajashri Karande, for CPCB, Respondent No. 12.

Mr. Y.S. Bhate with Mr. R.A. Naik, Mr. Kuldeep Pawar & Ms. Akanksha Bobhate, for Respondent No. 8.

CORAM: ALOK ARADHE, CJ. &
SANDEEP V. MARNE, J.

DATE : 01 JULY 2025.

P.C. (Per : Sandeep V. Marne, J.) :

1. The Petition is filed in public interest seeking a direction against Respondent No.1 for not granting any fresh quarry lease/renewals to Respondent No.8 or to any other person for carrying out quarry operations at Survey No.76/1/C, Village

Chinchavali, Taluka Ambernath, District Thane. Prayer is also prayed for initiation of action under Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957 for recovery of penalty of 100% amount for excess mining carried out at the site. Petitioners have also prayed for calculating environmental compensation for violation of the EC conditions and for excess mining in accordance with CPCB guidelines and to recover the amount of such compensation from Respondent No.8. Petition also seeks direction for restoration of the entire ecology of hilly area under proper restoration plan.

2. Brief facts leading to the filing of present PIL Petition are that land bearing Survey No.76/1/C at Village Chinchavali, Taluka Ambernath, District Thane is claimed to be a mountainous terrain with rich biodiversity. On 23 February 2015 Respondent No.8 was granted quarry lease for a period of five years for extraction and sale of minor minerals of stone (all sizes) and ordinary earth on the said land. The lease was further renewed for a period of five years upto 27 August 2024. The mining plan reveals that one lakh tonnes per annum of the basalt and weathered soil was supposed to be extracted for a period of five years totaling to five lakh tonnes. On 19 November 2019 environment clearance was granted in favour of Respondent No.8.

3. According to the Petitioners, Respondent No.8 carried out the activity of mining at the site in violation of the provisions of

Maharashtra Minor Mineral Extraction (Development and Regulation) Rules, 2013 and Environment Protection Act, 1986. That Respondent No.8 exceeded the permissible area. That Respondent No.8 has also exceeded the quantity of extracted mines and minerals. It is alleged that Respondent No.8 has destroyed the mountainous terrain during the course of its mining activities. Petitioners have accordingly filed the present Petition seeking restraint order or carrying out any mining activity on the land in question as well as for recovery of penalty from Respondent No.8 and direction for payment of environment clearance by Respondent No.8.

4. We have heard Mr. Zaman Ali, the learned counsel appearing for the Petitioners, Ms. Bhide, the learned Government Pleader for Respondent Nos.1, 2, 5, 6, 10 and 11, Ms. Bagwe, the learned counsel for Respondent Nos.3 and 4/MPCB, Mr. Chunawala, the learned counsel appearing for Respondent No.7-UOI, Mr. Bhate, the learned counsel appearing for Respondent No.8 and Ms. Karande, the learned counsel appearing for Respondent No.12/CPCB.

5. After having considered the submissions canvassed by the learned counsel appearing for parties, it is seen that Respondent No.8 was granted quarry lease on 25 August 2009 to mine and extract stones/mud and to sale the same for a period of five years from 25 August 2009 to 24 August 2014. Respondent No.8 accordingly carried out the mining activities at the site in question

since the year 2009. The Petitioners have however filed the present Petition questioning the correctness of mining activities carried out by the Respondent No.1 after prolong delay of 15 long years. Since the Petitioners permitted quarry to be operated at the site since 2009, it is too late in a day to now question grant of very lease in favour of Respondent No.8 on the ground that no quarrying activities can be undertaken at site. The quarry lease granted in favour of Respondent No.8 was apparently renewed and mining plan of Respondent No.8 has been accepted vide letter dated 4 April 2024.

6. It appears that on 8 July 2024, Circle Officer, Goregaon conducted site inspection in pursuance of complaints received against Respondent No.8 and a report dated 8 July 2024 was submitted to the Tahsildar. The report indicated that Respondent No.8 had applied for extension of quarry lease by submitting online application dated 16 January 2024, which was not decided. By letter dated 8 July 2024 Respondent No.8 was directed to shut the quarrying operations on account of publication of news on Lokmat-18 channel.

7. By order dated 12 September 2024 this Court issued following directions:

“1. Issue notice to the respondents, returnable on **16th October, 2024.**

2. Learned Government Pleader has put in appearance on behalf of respondent nos.1, 2, 5, 6, 10 and 11 and waives service of

notice. Ms. Bagwe, learned counsel has put in appearance on behalf of respondent nos.3 and 4 and waives service of notice. Mr. Farhan Batatawala, holding brief for Mr. Mohammedali Chunawala, learned counsel, has put in appearance on behalf of respondent no.7. Ms. Rajashri Karande, learned counsel has put in appearance on behalf of respondent no.12 and waives service of notice.

3. The issue raised in this PIL petition appears to have very serious dimension and if the averments made in the PIL petition are correct, the alleged illegal mining has potential of destructing the environment and cause even pecuniary loss to the State coffers.

4. Learned counsel for the petitioners has stated that for an area of 4 Hectare, a quarry lease was granted in favour of respondent no.8 in village Chinchavali, Taluka Ambernath, District Thane, whereafter a modified mining plan was issued on 7th November, 2023 setting out various conditions, however, the mining activity was being undertaken by the respondent no.8 in violation of the said conditions. He has also drawn our attention to a satellite imagery which has been enclosed as Exhibit-D with the PIL petition at page 141 which depicts mining activity, according to the petitioners, over an area of 9.88 Hectare. The petitioners have taken up the matter with various authorities and Tahsildar and Executive Magistrate, Ambernath vide his order dated 8th July, 2024 has directed to keep quarry and the crusher closed till further orders.

5. Learned Government Pleader states that on the basis of the various complaints received, a survey of the entire area is being conducted and depending on the survey report, appropriate action, which may be warranted under law, will be taken.

6. In the aforesaid facts and circumstances, we direct all the authorities to be vigilant and take appropriate action which may be warranted, if any violation of the terms of the lease is found.

7. The affidavit-in-reply on behalf of the State authorities shall be filed by the Collector giving details and also disclosing if any violation of the terms of the lease or any other law or rules is found.

8. We also call upon the Divisional Commissioner, Konkan Division to file affidavit on his behalf in his capacity as

Chairperson of the Ad-hoc/Interim Monitoring Committee constituted for Matheran Eco Sensitive Zone after gathering the correct facts on an inquiry to be conducted in this regard.”

8. In pursuance of order passed by this Court on 12 September 2024, the Collector carried out measurement of excavation by use of ETC machine, which indicated that the Petitioners had excavated minerals admeasuring 2,77,859 brass. After grant of opportunity of hearing to the Petitioners order dated 30 December 2024 is passed by Collector, Thane holding that there was excess excavation of 7,763 brass of minor minerals. Accordingly balance royalty of Rs.52,16,736/- was levied against Respondent No.8 in respect of excess quantity of excavation of 7,763 brass. It was further directed failure on the part of Respondent No.8 to deposit the amount of excess royalty would result in imposition of penalty on the Respondent No.8. Accordingly penalty order dated 4 February 2024 was issued directing Respondent No.8 to pay penalty of Rs.10,71,44,926/-. The above penalty was in respect of Part A of the mining lease. In respect of Part B, separate order dated 30 December 2024 has been passed directing Respondent No.8 to pay penalty of Rs.1,79,58,61,032/- for excess mining of 1,30,116 brass.

9. In our view, penalty orders are already issued against Respondent No.8. In that sense, the grievance of the Petitioners about excess mining by Respondent No.8 is met with. If the penalty orders are not stayed by any Court of competent jurisdiction, the Collector is bound to implement the same.

10. So far as grievance of the Petitioners about grant of lease at the site is concerned, we find that the said grievance suffers from gross delay as quarry lease was granted in favour of Respondent No.8 in the year 2015.

11. In our view therefore, nothing remains to be adjudicated in the PIL Petition since penalty orders are already issued against Respondent No.8. The Collector shall take appropriate action for recovery of the royalty as well as penalty for excess excavation carried out by Respondent No.8. This would however be subject to any challenge raised by Respondent No.8 to the penalty orders. The PIL Petition is accordingly **disposed of**.

(SANDEEP V. MARNE, J.)

(CHIEF JUSTICE)