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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.600 OF 2026

Rahul Pitambar Patil

PETITIONER

Age – 36 years, Occ – Business
R/o Flat No. 203, Matoshree Apartment,
Saikrupa Colony, Gondur Road,
Dhule, District - Dhule

VERSUS

1. The State of Maharashtra
Through Principal Secretary
Revenue and Forest Ministry,
Mumbai – 32

RESPONDENTS

2. The District Collector,
Nandurbar, District - Nandurbar

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Mr. Anshuman Deshmukh h/f Mr. B. S. Deshmukh, Advocate
for the Petitioner

Mr. S. B. Narwade, AGP for Respondent - State

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CORAM : SMT. VIBHA KANKANWADI &
RAJNISH R. VYAS, J.J.

DATE : 16th FEBRUARY, 2026

ORDER (PER SMT. VIBHA KANKANWADI, J.):

1. Present Petition challenges the Government Resolution dated 8th April, 2025 along with corrigendum dated 27th October, 2025, issued by Respondent No.1. It is contended

that the said Government Resolution and the Corrigendum are unreasonable, arbitrary and violative of Articles 19 (1) (g) and 301 of the Constitution of India.

2. Heard Mr. Anshuman Deshmukh holding for Mr. B. S. Deshmukh, for the Petitioner and Mr. S. B. Narwade, learned AGP for the Respondents – State.

3. The Petitioner contends that, he is engaged into the business of supply of construction material and mainly into transportation of minor minerals, particularly sand, within the State of Maharashtra, by obtaining valid royalty permit from other States. Respondent No.1, vide its circular dated 23rd July, 2011, permitted import of sand from neighbouring State, to fulfill the demand of sand in the State of Maharashtra. It was clarified that the transfer of sand from neighbouring State would be permissible only for the vehicles carrying valid transport permit issued by the neighbouring State from which sand was sought to be permitted into the State of Maharashtra. After paying the requisite royalty to the neighbouring State, sand was permitted to be carried into the State of Maharashtra. However, according to Respondent No.1,

it had received complaints regarding misuse of such permits and, therefore, circular dated 5th February, 2021 came to be issued for regulation of import and transport of sand from neighbouring State. Now, the State has made registration of individual firm or transporter compulsory on Mahakhanij portal, for getting permission for import and transport of sand, within the State of Maharashtra. By using the said Mahakhanij portal, it is made mandatory to obtain Electronic Transit Permit (ETP) from the adjacent Collector office, near the neighbouring State. The Petitioner had registered itself with Respondent No. 2 – Collector, Nandurbar. He used to get ETP after paying zero royalty fees to Respondent No.2, but to be paid to State of Gujrat (neighbouring State). The delivery challans used to be issued by Geology and Mining Department of State of Gujrat along with ETP issued by Respondent No.2. Respondent No. 1 – State has made various amendments, issued corrigendum and circulars, after the Circular dated 5th February, 2021, regarding illegal excavation of sand, imported from the neighbouring State. The Petitioner was obeying all the policies of the State. Thereafter, a comprehensive sand policy came to be issued by Respondent No.1 on 8th April,

2025, superseding all the earlier policies / circulars. However, to that also, there is a corrigendum, issued on 27th October, 2025. Now, the so called stringent conditions have been imposed in the corrigendum, which are excessively arbitrary and colourable exercise of powers and are in violation of the fundamental right to carry on business. It has been contended that, to control and regulate the lease holders of the neighbouring State, they are asked to produce certain documents. The Collectors have been granted the authority to call for the documents and the Collectors have been asked to send proposal to the State Government for its approval and only after getting the approval, the further task can be undertaken by the Collectors.

4. Learned Advocate for the Petitioner relies on a decision in "***State of Gujrat V/s Jayeshbhai Kanjaibhai Kalathiya***" 2019 (16) SCC 513, wherein it is held:

"42. It is in this context the words 'transportation' and 'storage' in Section 23-C are to be interpreted. Here the two words are used in the context of 'illegal mining'. It is clear that it is the transportation and storage of illegal mining and not the mining of minor minerals like sand which is legal and backed

by duly granted license, which can be regulated under this provision. Therefore, no power flows from this provision to make rule for regulating transportation of the legally excavated minerals.”

5. In this case, the impugned circular issued by the State of Gujrat, was held to be violative of Article 301 of the Constitution of India. The State Government cannot prohibit or impose such conditions, which will prevent a person from transporting sand. He then submits that present corrigendum dated 27th October, 2025 is having the same effect and would amount to complete prohibition.

6. We have gone through the policy issued vide circular dated 5th February, 2021, Government Resolution dated 8th April, 2025 as well as the impugned corrigendum dated 27th October, 2025. The first and the foremost fact that is required to be noted is that, the present petitioner is only a transporter and he does not claim to be a person who is having excavating license in the neighbouring State. Now, by this corrigendum, the Government wants to regulate the sand, which is being imported from other State. If we consider the Government Resolution dated 8th April, 2025, which was a

comprehensive government policy, thereby superseding all the earlier resolutions and can be said to be in consonance with the policy required to be adopted by a State in respect of mines and minerals. It prescribes for the excavation of sand from river, riverbed, CRZ area, costal area, as well as deals with various methods those are used for excavation. Part 10 of the said Resolution deals with the control over the sand coming into State of Maharashtra from other States. It prescribes the mandatory registration of the person, who deals with excavation in other State as well as who would transport and excavate sand from other State, in the online portal, called Mahakhanij. License is required to be given to only those persons to whom the concerned State has given permission to excavate. There is provision for check posts, as to how the documents to be checked, what is required to be uploaded in the Mahakhanij portal, to get ETP, the particulars of vehicles to be given etc. Accordingly, the licenses are to be obtained. Now, by the present corrigendum dated 27th October, 2025, clause 2 of Part 10 has been replaced. The earlier clause 2 was "ज्या व्यक्तींना / संस्थांना वाळूघाट / वाळू डेपो संबंधीत राज्याच्या

प्रशासनाने मान्यता प्रदान केली असेल त्यांनाच परवाना द्यावा” (License should be given to only those persons / institutions, who are granted approval for sand excavation by the concerned State). In the present corrigendum, the same is also retained, but further clarification is given that the person who holds license for excavation of sand in other State or to whom storage and sell license is issued, should make application to the Collector, within whose jurisdiction his vehicle will first enter and such application should be made through Mahakhanij portal. The documents to be annexed compulsorily, have also been prescribed and it is stated that the Collectors should scrutinize those applications and forward the same to the State Government, along with his or her remarks. After the Government approves the license, then only the Collector should undertake further procedure. By the said corrigendum, only the authority is changed, that means, earlier the powers were with the Collectors and now the powers are with the State Government. We do not find that the change in the authority, who would grant permission, would amount to prohibition of carrying on business of a person. Still, the persons like the Petitioner can carry on business, provided

they adopt proper procedure of uploading other documents on the Mahakhanij portal. We do not find any substance in the challenge by the Petitioner to the said Corrigendum dated 27th October, 2025 as well as the main Government Resolution dated 8th April, 2025. Since the subject is relating to environment, illegal excavation of sand is a major problem and, therefore, if the Government intends to control the same with the procedure, then it should be the welcoming step. The Government Resolution and the Corrigendum are not illegal and, therefore, we dismiss the Writ Petition. No order as to costs.

(RAJNISH R. VYAS)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE