



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 8243 OF 2026

Basudeo s/o Matoliram Agrawal,
Age: 47 years, Occu. Business,
R/o Krantinagar, Basmath Road Parbhani,
Tq. And Dist. Parbhani ... **Petitioner.**

VERSUS

- 1) The State of Maharashtra
Through its Secretary, Revenue and
Forest Department, Mantralaya, Mumbai.
- 2) The Additional Divisional Commissioner,
Chha. Sambhajinagar,
Tq. And Dist. Chha. Sambhajinagar
- 3) The Additional Collector, Hingoli
Tq. and Dist. Hingoli
- 4) The Sub Divisional Officer
Basmath, Tq.Basmath
Dist. Hingoli
- 5) The Tahsildar
Tahsil Office Basmath,
Tq.Basmath, Dist. Hingoli
- 6) The Police Inspector
Hatta Police Station
Tq.Basmath, Dist. Hingoli. ... **Respondents.**

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Advocate for the Petitioner : Ms. Surekha G. Chincholkar.
AGP for Respondents/State Authorities : Ms. P. V. Diggikar.
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**CORAM : MANJUSHA A. DESHPANDE, J.
DATE : 15.09.2026**

JUDGMENT :-

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.
2. The petitioner, who is the registered owner of Tipper No.MH-22-AA-2271 raises challenge to the judgment and order dated 24.03.2026 passed by the Additional Divisional Commissioner, Chh. Sambhajinagar in Appeal No.2025/ROR/REV/CR-356 further seeking release of the vehicle of the petitioner which is lying in the open premises of the Tahsil Office, Basmat from 18.11.2022 till today. Challenge is also raised to the huge penalty imposed by the Sub Divisional Officer, Basmat to the tune of Rs.4,33,224/-.
3. Mrs. Chincholkar, Learned advocate appearing for the petitioner submits that the vehicle of the petitioner lifted two brass sand as per the permit on 18.11.2022 and was on its way to the destination i.e. Bhokar, District Nanded. This vehicle belonging to the petitioner has been seized by the Circle Officer while it was on its way to the destination at Basmat. She submits that the panchnama was not conducted at the place where it was intercepted, but was conducted in the premises of the Tahsil Office at Basmat on 18.11.2022 by the

Circle Officer present in the Tahsil Office. She submits that on the basis of this panchnama, conducted by the Circle Officer, a report was forwarded to the Sub Divisional Officer on 18.11.2022, which reveals that the vehicle was intercepted at the Basmat-Parbhani road, near Hayatnagar which was allegedly transporting illegal sand, therefore, was subjected to penalty and accordingly a report was submitted by the Tahsildar, Basmat. The report stated that even prior to the interception of the vehicle on 18.11.2022, similar action was taken against the same vehicle by imposing penalty for illegal transportation of the sand. After submitting the aforementioned report dated 18.11.2022, a show cause notice was issued to the petitioner on 24.11.2022, which was much beyond the prescribed period of 48 hours as contemplated in Section 48(8)(2) of the Maharashtra Land Revenue Code, which requires the revenue authority to produce the seized vehicle before the Collector or any other Revenue Authority within 48 hours of its seizure.

4. The show cause notice was issued calling upon the petitioner why the penalty of Rs.3,33,224/- should not be imposed upon him for illegal transportation of the sand. Therefore, the petitioner has filed his reply to the show cause

notice on the very next day of issuance of show cause notice i.e. 25.11.2022. In response to the show cause notice, it was stated that the petitioner was very much in possession of the permit for transport of the minor mineral. The Circle Officer, Kurunda and Tembhurni holding a grudge against the present petitioner and taking undue advantage of his position has seized the vehicle of the petitioner and filed a false complaint against him. A request was made that his vehicle should be released and handed over to him.

5. The petitioner has raised challenge to the show cause notice before this Court, in which, this Court vide order dated 17.07.2023 issued directions to decide the case of the petitioner within 30 days from the date of the order. Thereafter, a final order came to be issued on 03.08.2023, thereby imposing penalty of Rs.4,33,224/- on the petitioner.

6. Mrs. Chincholkar submits that, the show cause notice was issued for an amount of Rs.3,33,224/- whereas the order of penalty dated 03.08.2023 imposes penalty of Rs.4,33,224/-, which is totally erroneous. She submits that if show cause notice is issued for a particular amount, the penalty cannot be imposed for an amount more than the amount mentioned in the show cause notice. Since the order imposing penalty of

Rs.4,33,224/- directed the petitioner to pay the said amount within a period of three days of receiving the said order, he again raised challenge to the said order in Writ Petition No.15182 of 2023. However, he has withdrawn the said Writ Petition to file appeal before the Additional Collector raising challenge to the said order dated 03.08.2023. The Collector has dismissed the appeal filed by the petitioner on 11.09.2025 and the challenge raised before the Additional Divisional Commissioner also has met the same fate. The Divisional Commissioner, Chh. Sambhajinagar has dismissed the appeal filed by the petitioner vide judgment and order dated 24.03.2026. As a result, the petitioner has filed the present Writ Petition assailing both the orders passed by the Additional Collector, Hingoli as well as the order of Additional Divisional Commissioner, Chh. Sambhajinagar.

7. The petitioner is raising challenge to the order of penalty on the ground that, the panchnama is conducted by the Circle Officer after the seizure of vehicle which is contrary to the provisions of Section 48(8)(1) of the Maharashtra Land Revenue Code. The seizure of vehicle on 18.11.2022 by the Circle Officer is also arbitrary and illegal. It is submitted that without measuring the sand contained in the Tipper of the

petitioner, penalty has been imposed for four brass sand. It is further submitted that since the date of seizure of the vehicle on 18.11.2022, the vehicle of the petitioner is standing in the open premises of the Tahsil office if the vehicle is allowed to be continued in the same condition for a further period, it may become incapable to ply on road. Therefore, considering that the vehicle has been seized without following due procedure of law, the order imposing penalty by the SDO, Hingoli deserves to be quashed and set aside.

8. Per contra, learned AGP appearing for the respondents/State Authorities has vehemently opposed the prayer of the petitioner by contending that, pursuant to the report submitted by the Circle Officer of Tembhurni and Hayatnagar, a report was forwarded to the SDO on 18.11.2022 for initiating appropriate penal proceedings against the said vehicle and the person responsible for the illegal transportation of sand. She submits that the said vehicle was also previously found to be involved in illegal transportation of sand. This fact was specifically brought to the notice of competent Authority for taking into consideration while taking penal action against the owner. The vehicle was found to be transporting four brass sand without valid permit. The driver of the vehicle has failed

to produce the valid permit royalty pass for transportation of the sand. Therefore, vehicle was seized and was brought to the Tahsil Office for further action. Upon the report of the Circle Officer, the Tahsildar, Basmat has forwarded a report and panchnama to the SDO on the same day i.e. on 18.11.2022 and respondent No.4 has issued a show cause notice dated 23.11.2022 to the petitioner calling upon him as to why the penalty of Rs.3,33,224/- should not be imposed on him for illegal transportation of four brass of sand. Since the vehicle has been seized on the second occasion, respondent No.4 has called for the market value of the vehicle from the Deputy Regional Transport Office, Hingoli and accordingly on receiving the communication about the market value of the vehicle which was assessed at Rs.3,00,000/-, the penalty has been imposed to the tune of Rs.4,33,224/-. She further submits that the competent authority is empowered by statute to initiate appropriate penal proceedings under Section 48(7) and 48(8) of the Maharashtra Land Revenue Code to impose penalty on the vehicle that is found to be engaged in unauthorized transportation of sand. In view of the available record, the order passed on 03.08.2023 cannot be said to be arbitrary, perverse or contrary to law. The said orders have been passed upon due consideration of the relevant facts and

material placed on record. The Additional Collector, Hingoli as well as Additional Divisional Commissioner, Chh. Sambhajinagar has found that the nature of proceedings conducted by the subordinate authorities is in accordance with the procedure prescribed by the law and the present petitioner has failed to establish any material illegality, jurisdictional error or any other competent ill infirmity in the impugned orders, which do not warrant any interference in the orders passed by the Additional Collector, Hingoli as well as Divisional Commissioner, Chh. Sambhajinagar. Thus, according to her, the order passed by both the Authorities being perfectly legal and valid. There is no case for interference made out by the petitioner for exercise of the powers of this Court under Article 227 of the Constitution of India.

9. I have heard the respective parties and perused the documents placed on record with their assistance. The vehicle belonging to the petitioner has been intercepted and brought to the Tahsil Office, after which, the panchnama is conducted by the Circle Officer, Hayatnagar and Tembhurni, which discloses that, a transport permit was in possession of the driver which had a validity upto 11.18 p.m. Although the panchnama is conducted at 3.00 p.m. in the premises of the

Tahsil Office. It does not record the time at which the vehicle was intercepted. However, it records that the permit possessed by the driver had a validity upto 11.18 p.m., for the very date i.e. on 18.11.2022. No measurement of the sand was conducted during the panchnama. On the statement of the driver that the Hyva/Tipper contained about four brass of sand, the same is stated in the report forwarded to the SDO by the Tahsildar. Therefore, although it is claimed by the Authorities that the driver did not produce any documents. Fact remains that the driver was in possession of the permit. However, the validity of the said permit had expired few hours before conducting the panchnama at 3.00 p.m. Similarly, although the report is forwarded to the SDO by the Tahsildar on 18.11.2022, alongwith the panchnama, the show cause notice has been issued to the petitioner on 24.11.2022, which is beyond the period prescribed in Section 48(8) of the Maharashtra Land Revenue Code. The Section 48(8) of the Maharashtra Land Revenue Code is reproduced herein below which reads thus :

“48. Government title to mines and minerals.—

(8) (1) Without prejudice to the provision of sub-section (7), the Collector or any revenue officer authorised by the Collector in this behalf, may seize and confiscate any mineral extracted, removed,

collected, replaced, picked up or disposed of from any mine, quarry or other place referred to in sub-section (7), the right to which vests in, and has not been assigned by the State Government, and may also seize and confiscate any machinery and equipment used for unauthorised extraction, removal, collection, replacement, picking up or disposal of minor minerals and any means of transport deployed to transport the same.

(2) Such machinery or equipment or means of transport, used for unauthorized extraction, removal, collection, replacement, picking up or disposal of minor minerals or transportation thereof, which is seized under sub-section (1), shall be produced before the Collector or such other officer not below the rank of Deputy Collector authorised by the Collector in this behalf, within a period of forty-eight hours of such seizure, who may release such seized machinery, equipment or means of transport on payment by the owner thereof of such penalty as may be prescribed and also on furnishing personal bond of an amount not exceeding the market value of or the seized machinery, equipment or means of transport, stating therein that such seized machinery, equipment or means of transport shall not be used in future for unauthorised extraction, removal, collection, replacement, picking up or disposal of minor minerals and transportation of the same.”

10. Bare reading of 48(8)(2) makes it evident that the machinery, equipment or means of transport, used for unauthorized extraction, removal, collection, replacement,

picking up or disposal of minor minerals, which is seized under sub-section (1) is required to be produced before the Collector or any other officer not below the rank of Deputy Collector within a period of forty-eight hours of such seizure, who may release the seized machinery, equipment or vehicle on payment of penalty as may be prescribed and also on furnishing personal bond of an amount not exceeding the market value of the seized machinery. In the present case, it is evident that although the report was forwarded by the Tahsildar to the SDO on 18.11.2022. The SDO has not taken any steps till 24.11.2022, which is more than five days after the seizure of vehicle. The show cause notice has been issued on 24.11.2022, which is beyond the period of 48 hours as contemplated under Section 48(8) of the Maharashtra Land Revenue Code. This delay in producing the machinery, equipment, vehicle etc. before the competent Authority for pressing appropriate orders has been deprecated by this Court in various judicial pronouncements. In *Dipak Logistics and Forwarders Kharghar Navi Mumbai and another Vs. State of Maharashtra and others (Writ Petition No.1273 of 2018)* as well as in case of *Shahaji Uttam Rakibe Vs. The State of Maharashtra and others (Writ Petition No.8915 of 2024)*, this Court has held that, it is mandatory for the competent authority to produce the vehicle

for passing appropriate orders within a period of 48 hours of such seizure. This aspect of the procedure, which requires to follow mandatory timeline as provided under Section 48(8) of Maharashtra Land Revenue Code has been totally ignored by both the Authorities i.e. Additional Collector, Hingoli and Additional Divisional Commissioner, Chh. Sambhajinagar while passing the orders impugned. Even the ground raising objection to the penalty of Rs.4,33,224/- raised by the petitioner deserves consideration. Although show cause notice is issued for an amount of Rs.3,33,224/- which was later increased to Rs.4,33,224/- by the SDO vitiates the order. The enhancement of the penalty is tried to be justified by the State Authorities claiming that, since the vehicle has been seized on the second occasion, the market value of the vehicle was called from the Deputy Regional Transport, Hingoli and accordingly, the value of the vehicle is assessed at Rs.3,00,000/-. The total amount along with the penalty of sand is assessed to Rs.4,33,224/- and accordingly penalty has been imposed. This explanation given in the affidavit does not find support from the documents placed on record by the State Authorities in its reply, which contains the table of valuation of the various vehicles given by the Deputy Regional Transport Officer, Hingoli, which shows that the valuation of the vehicle of the

petitioner with No.MH-22-AA-2271 is not at all mentioned in the table. Even though the registration number of the vehicle has been mentioned against the said number in the column of valuation, no amount has been mentioned. Therefore, there is no substance in the contention of the learned AGP that, after receiving the valuation of the vehicle, the penalty has been imposed in accordance with the policy of the Government. As observed hereinabove, since the vehicle was not produced before the competent Authority within 48 hours of its seizure for taking appropriate action, the procedure for seizing the vehicle stands vitiated. As a result, the order impugned as regards seizure of vehicle deserves to be quashed and set aside, in view of the various judicial pronouncements of this Court as referred herein above.

11. In the wake of above observations, the present Writ Petition is allowed by quashing and setting aside the order of penalty imposed by the SDO vide order dated 03.08.2023. Consequently, the orders of the Additional Collector, Hingoli as well as the Additional Divisional Commissioner, Chh. Sambhajinagar are also quashed and set aside.

12. The respondents are directed to release the vehicle forthwith.

13. Rule is made absolute in the above terms.

(MANJUSHA A. DESHPANDE, J.)

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vmk/-