



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

903 WRIT PETITION NO. 10557 OF 2026

Paresh Dilip Patil

VERSUS

The State Of Maharashtra Through Principal Secretary And Others

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Mr. Deshmukh Bhausaheb Sadashivrao for the Petitioner.

Dr. Kalpalata Patil Bharaswadkar, Addl. G.P. for the Respondent/State.

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CORAM : MANJUSHA DESHPANDE, J.

DATE : 04.09.2026

PER COURT :

1. The Petitioner is aggrieved by the undated order issued by Respondent No.2, seizing the vehicle of the Petitioner and subsequent order imposing penalty upon the Petitioner for unauthorizedly excavating the minor minerals by using the vehicle that is JCB bearing no.MH-54-B-1329. The impugned order was passed on 20th August, 2026.

2. It is the contention of the Petitioner that, First Information Report ('**FIR**') came to be registered on 28th July, 2026, alleging that on 27th June, 2026, one Mr.Dattatray Nikam informed to the complainant that illegal excavation of murum (minor minerals) is taking place with the help of JCB in the Sub Divisional Magistrate Amalner Division at Pimple, Taluka Amalner. Upon receiving of such information, the complainant visited the spot and seized the yellow-coloured JCB, which was found standing at some distance from the spot. One blue-and-white-

coloured dumper was also found at the spot. The driver of the dumper was found sitting in the driver's cabin. Upon being questioned by the police about the two vehicles, the driver disclosed the names of the respective vehicles. When he was asked to produce the requisite permit issued by the concerned department, he failed to produce the same. On the aforementioned background, the FIR came to be registered by the Police Authorities under Sections 303(2), 305 and 62 of the Bharatiya Nyaya Sanhita, 2023 (**'BNS, 2023'**) and the vehicle was taken into custody. It is the contention of the Petitioner that after seizure of the vehicle, it was taken into custody by the Police Officers and thereafter it was informed to the Sub Divisional Officer, Amalner (**'SDO'**) by way of communication dated 28th July, 2026, informing the SDO, Amalner that the vehicle/JCB has been seized, while engaged in excavation of minor minerals and an offence has been registered against him. Further calling upon him to take necessary action against the vehicle owner for illegal excavation of the minor minerals.

3. It is submitted that upon receiving such communication dated 28th July, 2026, Panchanama came to be conducted on 30th July, 2026, in the premises of the Police Station itself and, after carrying out such Panchanama an undated notice has been issued to the Petitioner, who is the owner of the said JCB. Calling upon him, to show cause as to why the penalty shall not be imposed upon him under Section 48(8) of the Maharashtra Land Revenue Code, 1966 (the **'MLR Code, 1966'**) for an

amount of Rs.7,50,000/-. The Petitioner was called upon to respond to the said show-cause notice within three days. It is submitted that in fact this notice is undated and the Petitioner has received the said notice on 10th August, 2026. It is submitted that though initially the notice was undated, subsequently the date was affixed on it as 6th August, 2026. Upon receiving such notice, the Petitioner has approached this Court challenging the said notice on the ground that it is not permissible for the Revenue Authorities to impose penalty on the basis of the FIR registered by the Police Officer.

4. According to the learned Advocate for the Petitioner only upon undertaking procedure contemplated under Section 48(7) and (8) of the MLR Code, 1966, the action of imposing penalty can be imposed on the owner of vehicle. In the present case, according to him, the vehicle has been seized by the Police Authorities and thereafter handed over to the Revenue Authority for taking further action under the MLR Code, 1966, which is not permissible in view of the catena of decisions of this Hon'ble Court. It has been held that after the Police Authority seize the vehicle, further action by the Tahsildar under Section 48(8) of the MLR Code, 1966 to impose penalty is not permissible.

5. In support of his submissions, he relies Judgment of this Court at Coordinate Bench in Writ Petition No.390 of 2021 dated 3rd July, 2025 (*Shri Gajanan S/o. Vilasrao Kalbande & Anr. V/s. State of Maharashtra & Ors.*), Writ Petition No.392 of 2021 dated 23rd June, 2025

(Shri Dhiraj S/o. Prabhakar Nimkar V/s. State of Maharashtra & Ors.), as well as Writ Petition No.6242 of 2025 dated 26th February, 2026 *(Ayub Jumma Reghiwale V/s. State of Maharashtra & Ors.)*. In all these decisions, this Court has consistently taken a view that the action taken by the Revenue Authorities under Section 48(8) upon seizure by the Police Authorities is not permissible.

6. In view of the aforementioned judicial pronouncement, the learned Advocate for the Petitioner submits that the seizure of the vehicle in the present case is by the Police Authorities, an FIR has already filed, which is an independent cause of action. The subsequent action of the Revenue Authorities is not permissible, therefore, it needs to be quashed and set aside.

7. Per-contra, the learned Addl. G.P submitted that so far as the grant of relief to the Petitioner is concerned, the Petitioner has an efficacious and alternate remedy available under law. Therefore, the present Writ Petition itself is not maintainable. She would further rely on the Government Circular dated 17th July, 2025, issued by the Revenue and Forest Department, which according to her has been issued for preventing unauthorized excavation and transport of minor minerals.

8. It is submitted that the Revenue Administration is under a statutory administrative obligation to protect government mineral resources and prevent loss of public revenue and environmental degradation. Thus the Government Resolution dated 8th April, 2025,

concerning the sand/minor minerals policy and the Government Circular dated 17th July, 2025 further demonstrate the State's policy of taking effective action against unauthorized excavation, transportation and trafficking of minor minerals. It is submitted that in view of the aforementioned circular, the Police Authorities as well as the Revenue Authorities are directed to cooperate with each other, whenever there is an incident of illegal transportation or excavation of minor minerals reported. She submits that in fact Clause No.1 and 2 of the Government Circular permits the Revenue Authorities to file FIRs against the person who is found to be engaged in the excavation and transportation of minor minerals.

9. I have heard the respective parties and perused the documents placed on record. Undoubtedly, the FIR has been registered for illegal excavation of minor minerals without any valid permit on 27th July, 2026 by the complainant who is the Police Head Constable at Amalner Police Station. Upon such registration of FIR under Sections 303(2), 305(e) and 62 of the BNS, 2023, the Police Inspector of Amalner Police Station has communicated about registration of FIR and seizure of the vehicle to the SDO, Amalner vide communication dated 28th July, 2026, calling upon him to take appropriate action at his end. On receiving such communication, a Panchanama is conducted on 30th July, 2026. The Panchanama was conducted in the Police Station, where the vehicle was parked after it was seized by the Police Officer of the Amalner

Police Station. After conducting the Panchanama on 30th July, 2026, an undated notice came to be issued to the Petitioner. After which the Petitioner appears to have communicated to the SDO calling upon him to make him available all the documents in respect of his vehicle on the basis of which the vehicle has been seized. After making such communication dated 20th August, 2026, it appears that he has received the notice dated 6th August, 2026 alongwith the documents. Upon receiving the notice, the Petitioner has immediately approached this Court, challenging the action of the Revenue Authorities taken under Section 48(8) of the MLR Code, 1966. In the meanwhile, during the pendency of the Writ Petition, the final order imposing the penalty on the Petitioner has been passed by the SDO on 20th August, 2026, which is also challenged by the Petitioner by way of amendment.

10. **Section 48(7) and (8) of the MLR Code, 1966, reads thus:**

48. Government title to mines and minerals.

7) Any person who without lawful authority extracts, removes, collects, replaces, picks up or disposes of any mineral from working or derelict mines, quarries, old dumps, fields, bandhas (whether on the plea of repairing or construction of bunds of the fields or on any other plea), nallas, creeks, river-beds, or such other places wherever situate, the right to which vests in, and has not been assigned by the State Government, shall, without prejudice to any other mode of action that may be taken against him, be liable, [on the order in writing of the Collector or any revenue officer not below the rank of Tahsildar authorised by the Collector in this behalf, to pay penalty of an amount [up to five times] the market value of the minerals so extracted, removed, collected, replaced, picked up or disposed of, as the case may be:

*“(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 unauthorised 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 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.]”

11. Sub-Section 8 of Section 48 of the MLR Code, 1966, empowers the Collector or any Authorized Officer by the Collector to seize or confiscate any mineral extracted, removed, collected etc. from any mine, quarry or other place alongwith machinery, equipment etc. referred to in sub-section (7). Therefore, it is expected that the Revenue Officer should seize the vehicle from the place where it was found to be

engaged in such illegal activity of extracting, removing, collecting or transporting the minor minerals and upon seizure of this vehicle or minor minerals, it is required to be produced before the Collector or such other Authority not below the rank of the Deputy Collector within 48 hours.

12. In the present case admittedly the seizure has not been conducted by the Revenue Authority but the vehicle has been seized by the Police Authorities and after registering the offence under the BNS, 2023 a communication was made to the SDO, Amalner informing about the seizure of vehicle and calling upon him to take appropriate action as permissible under law. Upon receiving such information, the Panchanama has been conducted, which is not in conformity with Section 48 Sub-Section 8, Sub-Clause (1) of the MLR Code, 1966. The aforementioned procedure of taking action after the vehicle has been seized by the Police Authorities has been deprecated by various decisions of this Court, as has been seen from the Judgment annexed to the Writ Petition. This Court has been consistent in its view that such a procedure adopted by the Revenue Authorities is not permissible as per Section 48(8) of the MLR Code, 1966. In Writ Petition No.392 of 2021, following observations are made by this Court, which read thus :

“9. From the order dated 14.12.2020, it appears that on the basis of the report of Police Inspector, Police Station, Warud, had given a requisition to the Tahsildar to measure the sand, accordingly sand was measured by the Talathi concerned, who found that the sand admeasuring 7.88 brass was being transported. After referring the Government Resolution, the penalty was imposed against

the sand as well as truck owner. As regards the powers of Police, the Division Bench of this Court in Writ Petition No.8424/2018 (Gufran Khan Rahmatullah Khan Vs. State of Maharashtra and Ors.) decided on 13.03.2019 has held that the action of seizure by Police Station itself being without jurisdiction, all further actions taken in the case by the Revenue Authority would also have to be termed as the ones without jurisdiction.

10. Relying on the said judgment, this Court in Writ Petition No.1081/2021 (Shri Shoeb Ahmad s/o. Ajaz Ahmad Vs. State of Maharashtra and Ors) has observed that the police could not have seized the vehicle under Section 48 of the MLR Code. Further the Tahsildar could not have invoked Section 48(8) of the MLR Code to impose penalty on the truck owner inasmuch as Section 48(8) provides that the machinery/equipment used for unauthorized transportation of minerals, if seized under Clause (1) of Section 48(8), the same shall be produced before the Officer not below the rank of Deputy Collector within 48 hours of such seizure, who may release the said vehicle/equipment to the owner on penalty as may be prescribed.”

13. Similarly in case of *Ayub Jumma Reghiwale (supra)*, the same view is reiterated in Paragraph No.6, which reads thus :

“6. In the backdrop of these submissions, while considering the rival controversy, it has to be noted that undisputedly the JCB in question is already released on suprutnama and the only issue is about sustainability of the orders imposing penalty. The order passed by the Sub-Divisional Officer shows that it records that JCB bearing no.MH-28-AZ-3452 was found plying on the road on 02.07.2025 with 100 brass of Muroom and the said order also mentions that the JCB was carrying 100 brass of sand. There is clear discrepancy in the impugned order which mentions at one place '100 brass of Muroom' and at another place '100 brass of sand'. Further, it is specifically mentioned that the JCB was found plying on the road on 02.07.2025 which is clearly erroneous in view of the fact that the JCB itself was released by the order of the Judicial Magistrate (First Class), Mehkar on 03.07.2025. On this discrepancy, the

learned Assistant Government Pleader states that these are typographical mistakes. In support of his contention that the JCB was seized by the police authorities, the counsel for the petitioner has pointed out the observations in the impugned order and the same are also not disputed by the learned Assistant Government Pleader and therefore it becomes clear that the seizure of the JCB was by the police authorities and not by the Tahsildar. The contention of the petitioner that the seizure is not under section 48(8) has substance. The reliance placed by the counsel for the petitioner on the judgment in Gufran Khan Rahmatullah Khan (supra) thus become relevant wherein it is held that the action of seizure of the vehicle by the police authorities is without authority and hence all further actions based on such seizure are also rendered without jurisdiction.”

14. Although the learned Addl. G.P. has strenuously contended that in view of circular dated 17th July, 2025, the Police Authorities as well as the Revenue Authorities have to act in tandem and such procedure is permissible according to the said circular. Upon going through the circular, I do not find that it has to be read in such a manner. The circular in Sub-Clause (i) itself makes it clear that the Revenue Authorities should not only impose penalty but also file FIR against the persons engaged in the illegal excavation and transportation of sand such powers are given to the Revenue Authorities. Similarly, even though it is permissible for the Police Authorities to file FIR against the persons engaged in the illegal activities under the sections mentioned in Sub-Clause (ii), it does not contemplate that the Revenue Authorities should take action without following the procedure as contemplated under Section 48(8) of the MLR, Code, 1966. Thus, it is contemplated that the

Revenue Authorities should file an FIR against the persons who are found to be engaged in the excavation and transportation of the illegal minor minerals. The procedure adopted by the Revenue Authorities in the present case suffers from procedural flaws. The initiation of the action under Section 48(8) of the MLR Code, 1966 itself becomes unsustainable. This Court does not approve of the tactics adopted by the Revenue Authorities, of placing reliance on the seizure of vehicle made by the Police Authorities, to initiate action under Section 48(8) of the MLR Code, 1966, which is in clear contravention of the view taken by this Court. The procedure adopted by the Revenue Authorities is in contravention of the procedure laid down under Section 48(7)(8) of the MLR Code, 1966. As such the Writ Petition deserves to be allowed.

15. In view thereof, the Writ Petition is allowed in terms of Prayer Clause [B-1]. The vehicle of the Petitioner seized pursuant to the action taken by the Revenue Authority, shall be released forthwith.

[MANJUSHA DESHPANDE, J.]