

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11418 OF 2015

Ashok Pradip Kalkutagi & Ors. .. Petitioners
vs.
The Additional Commissioner,
Pune Division, Pune & Ors. .. Respondents

Mr. G. M. Savagave for Petitioners.
Ms M. S. Bane – 'B' Panel Counsel for Respondents.

CORAM : M. S. SONAK, J.
DATE: 20 NOVEMBER 2015

P.C. :-

- 1] **Not on board. Upon production, taken on board.**
- 2] Rule. With the consent of and at the request of the learned counsel for the Respondents, Rule is made returnable forthwith.
- 3] The learned counsel for the parties agree that the issues raised in this petition stand covered by the order dated 18 November 2015 made in writ petition no. 10465 of 2015 and connected matters.
- 4] The Petitioners have submitted a chart which indicates the registration numbers of the confiscated vehicles, quantity of sand which has been transported and quantum of penalty at the base rate of Rs.3,000/- per brass. The chart reads thus :

This order is corrected as per 'Speaking to Minutes' order dated 09/12/2015.

Sr.	W.P. No.	Name of Petitioner	Vehicle No.	Brass Quantity	Market value	Per Brass Penalty	5 Times Total Penalty
1	11418/2015	Ashok Kalkutagi	P. MH-10-Z-4312	8 Brass	3,000/-	3000 x 5 =15,000/-	1,20,000/-
2	11418/2015	Ravasaheb Jalihal	N. MH-09-CA-1185	5 Brass	3,000/-	3000 x 5 =15,000/-	75,000/-
3	11418/2015	Dilip N. Patil	MH-09-CU-7110	5 Brass	3,000/-	3000 x 5 =15,000/-	75,000/-
4	11418/2015	Gurunath Chavhan	K. MH-09-BC-5794	6.5 Brass	3,000/-	3000 x 5 =15,000/-	97,500/-
5	11418/2015	Manish Gaikwad	T. MH-10-Z-636	7 Brass	3,000/-	3000 x 5 =15,000/-	1,05,000/-
6	11418/2015	Rajashri Jadhav	J. MH-09-CU-842	7 Brass	3,000/-	3000 x 5 =15,000/-	1,05,000/-
7	11418/2015	Kumar Salunke	H. MH-09-CU-5299	7.5 Brass	3,000/-	3000 x 5 =15,000/-	1,12,500/-
8	11418/2015	Kumar Salunke	H. MH-09-CU-7299	8 Brass	3,000/-	3000 x 5 =15,000/-	1,20,000/-

5] The Authorities are directed to verify whether the details set out in the chart are proper or not. Each of the Petitioners are directed to pay penalty at the base rate of Rs.3,000/-, which amounts to Rs.15,000/- per brass. Accordingly, each of the Petitioners are directed to pay penalty at the rate of Rs.15,000/- per brass within a period of two weeks from today. Such payment to be made with Respondent No. 4. Once such payment is made, the Respondent No. 3 is directed to release the Petitioners vehicles upon compliance with predicates of Section 48(8)(ii) of the Code including in particular, the predicates concerning furnish of personal bonds etc. This exercise shall be completed by the Respondent No. 3 within a period of one week from the date the Petitioners produce

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necessary proof with regard to payment with the Respondent No. 4.

6] It is made clear that the direction for payment of penalty to the Petitioners is without prejudice to the rights and contentions of the Petitioners in the pending revision applications. It is further made clear that there shall be no stay in so far as recovery of the balance amount of penalty from the Petitioners is concerned. The direction for payment of penalty in terms of the offer of the Petitioners is basically in the context of release of the Petitioners vehicle by the Respondent No. 3.

7] It is further made clear that this Court has not examined the merits of the matter and therefore, all contentions of all the parties are left open for decision by the Additional Commissioner in the pending revision application. As directed earlier, Additional Commissioner is directed to dispose of the Petitioners pending revision applications as expeditiously as possible and in any case within a period of four months from today.

8] Rule is made absolute to the aforesaid extent only. There shall be no order as to costs.

9] All concerned to act on basis of authenticated copy of this order.

Chandka

(M. S. SONAK, J.)