

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

CRIMINAL WRIT PETITION NO. 131 OF 2016

Shaikh Pasha Shaikh Papamiya .. Petitioner

Versus

The State of Maharashtra & Ors. .. Respondents

Mr. Sayyed Tauseef Yaseen, Advocate for the petitioner.
Mr. A.N. Gaddime, Special Counsel for the respondents.

**CORAM : A.V.NIRGUDE &
INDIRA K. JAIN, JJ.**

DATED : 18.03.2016

P.C. :-

1. Heard. Perused the petition and affidavit in reply. This petition seeks release of a truck which was detained by the Forest Officer on 18.09.2015 for alleged commission of certain forest offences. The narration in the complaint also indicates that apparently there are commission of offences punishable under the Indian Penal Code also. In the situation of this nature the Forest Officers are empowered to detain vehicle as well as forest produce. But as per the provisions of section 61-A of the Indian Forest Act, as applicable to the State of Maharashtra, such detained vehicle etc. are required to be produced before the "Competent Officer". Such Officer is empowered to confiscate the goods as well as vehicle/s used in Commission of the forest offence. But

the Officer cannot order confiscation unless he gives show-cause notice to the person from whom vehicle is seized. An opportunity of hearing should be given to him. Revision against such order is also provided under section 61-C of the Act. All these steps apparently are not taken in this case. The vehicle is seized and is detained. No show cause notice is given. Affidavit in reply filed by the Forest Department indicates that the order of confiscation is already passed. Such statement is factually erroneous because show cause notice was not issued to the person from whom the vehicle was seized. We, therefore, direct the Forest Officer to follow the procedure prescribed in law before taking any action. This shall be done as soon as possible.

2. The petition stands accordingly disposed of.

[INDIRA K. JAIN,J.]

[A.V.NIRGUDE,J.]