

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5927 OF 2016

Kishor Shamrao Bansode	...	Petitioner
Vs.		
The State of Maharashtra and Ors.	...	Respondents

Mr. K.N. Shermale, Advocate for the petitioner.
Mr. S.K. Tambe, AGP for respondents.

CORAM : SUNIL P. DESHMUKH, J.
DATE : 22-06-2016.

Per Court :

1. Heard learned counsel for the petitioner. The petitioner purportedly aggrieved by notice dated 02-06-2016 issued by the Tahsildar, Nevasa, District Ahmednagar directing petitioner to deposit bond amount of Rs. 1,50,000/- pursuant to provisions of Maharashtra Land Revenue Code, 1966 particularly section 48 (8) (2) and notification dated 12-06-2015, since petitioner's vehicle has been found on second occasion transporting illegally minor minerals. In the same it has been referred to that earlier on, the vehicle had been released upon recovery of penalty and taking a bond that the vehicle would not be used again for illegal transportation.

2. He submits, it is being alleged that said bond has been

jumped and the condition thereunder had not been adhered to and as such the vehicle once again came to be seized on 30-03-2016, on this occasion as well the penalty amount has been deposited, however, payment of bond amount is being insisted upon.

3. Learned counsel submits that, no notice whatsoever has been given in respect of seizure or even an opportunity to dispute as to whether there has been breach of the conditions of bond. He submits that vehicle is lying with the respondents in the office of Tahsildar, Shrirampur and is getting ruined standing still. He therefore urges for stay to the impugned order and release of the vehicle.

4. Section 48 (8) (2) reads as under:

(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 office 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”.

5. On second occasion the petitioner has been alleged of illegal transportation, while releasing the vehicle on first occasion a bond had been executed by petitioner referred to above and that the vehicle would not thereafter be used for illegal transportation. Since there is an allegation that the petitioner has jumped the condition of the bond and an action is mooted for recovery of the bond amount, pursuant to the provisions, As such, it appears that, at this stage, no fault can be found with the impugned / notice passed.

7. It is open for the petitioner to take up such proceedings against the impugned order before the appropriate forum disputing the allegations therein including release of the vehicle. In the circumstances, it does not appear to be a case wherein powers of this court are required to be invoked. The writ petition as such is not being entertained and is rejected.

8. In case an appropriate remedy is resorted to against the order, the decision may be taken by said authority as expeditiously as possible preferably within four weeks from the date of lodging of the proceedings.

(SUNIL P. DESHMUKH)
JUDGE