

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.1708 OF 2016

Shaikh Karim Shaikh Rehman

-vs-

The Tahsildar, Tahsil and District Amravati and ors

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr.U.J. Deshpande, counsel for the petitioner.
Mr.N.R. Rode, AGP for the R-1 & 2.

CORAM : SMT. VASANTI A. NAIK &
V. M. DESHPANDE, JJ.

DATE : MARCH 22, 2016.

By this writ petition, the petitioner challenges the order of the Circle Inspector dated 31.1.2016, detaining/seizing the truck of the petitioner, in contravention of the provisions of Section 48(7) and 48(8) of the Maharashtra Land Revenue Code.

It is the case of the petitioner that the truck of the petitioner was loaded with the sand that the petitioner's truck was authorized to carry and the Circle Officer seized the truck without any authority of law. It is stated that the seizure of the truck by the Circle Inspector is in violation of the provisions of Section 48(7) and 48(8) of the Maharashtra Land Revenue Code. It is stated that in view of the provisions of Section 48(8) only an officer not below the rank of the Tahsildar is entitled to seize the vehicle and confiscate the material. It is stated that the Circle Officer, being subordinate to the Tahsildar, was not entitled to seize the truck of the petitioner. The learned counsel for the petitioner relied on the judgment dated 14.1.2016 in Writ Petition

No.6481 of 2015 to substantiate his submission.

Shri N.R. Rode, the learned Assistant Government Pleader appearing on behalf of the respondents has tendered an affidavit-in-reply of the respondent No.1 in the Court today. The same is accepted on record. It is stated in the affidavit-in-reply that the seizure of the vehicle of the petitioner was not made by the Circle Officer and the same was made by the Tahsildar himself. It is stated that the documents annexed to the petition by the petitioner clearly demonstrate that the seizure of the vehicle was by the Tahsildar. It is stated that for a similar offence, the vehicle of the petitioner was seized earlier on 11.12.2015 and the petitioner had deposited an amount of Rs.20,400/- towards the penalty. It is stated that the petitioner had at that time executed a bond of Rs.1,20,000/- with an undertaking that he would not use the vehicle for illegal transportation of sand. It is stated that the petitioner has again indulged in the same activity by transporting the unauthorized sand in his vehicle. It is stated that the judgment dated 25.1.2016 in Writ Petition No.6812 of 2015 would not apply to the case in hand. It is stated that the seizure of the vehicle is made in accordance with the provisions of Section 48(8) of the Maharashtra Land Revenue Code. It is submitted that appropriate action in the matter would be taken by resorting to the provisions of the Maharashtra Land Revenue Code. The learned Assistant Government Pleader sought for the dismissal of the writ petition.

On hearing the learned counsel for the parties and on a perusal of the documents annexed to the petition and the affidavit-in-reply filed on behalf of the respondent

No.1, it appears that the relief sought by the petitioner cannot be granted. In this case, the seizure of the truck appears to have been made by the Tahsildar. In the decided case, i.e. Writ Petition No.6481 of 2015, the truck was seized by the Circle Officer, who is an officer below the rank of the Tahsildar. In the instant case, the record depicts that the truck was seized by the Tahsildar himself. Also, we find that the action under the same provisions i.e. Section 48(8) of the Maharashtra Land Revenue Code was taken against the petitioner and the petitioner had submitted the bond of Rs.1,20,000/- with an undertaking that he will not indulge in illegal transportation of the sand in future. The documents annexed to the affidavit-in-reply of the respondent No.1 clearly show that the action was taken against the petitioner under Section 48(8) of the Code and he was penalized. In any case, since the vehicle of the petitioner is not seized by an officer below the rank of the Tahsildar and since the petitioner had based his petition solely on the said ground, the writ petition is liable to be dismissed.

Hence, we dismiss the writ petition with no order as to costs.

JUDGE

JUDGE

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