

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

WRIT PETITION NO. 9667 OF 2017

Rajendra Kaduba Gajre

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri V. M. Humbe, Advocate for the Petitioner.

Shri S. G. Karlekar, A.G.P. for Respondents/State.

**CORAM : S. C. DHARMADHIKARI AND
MANGESH S. PATIL, JJ.**

DATE : 28TH JULY, 2017.

PER COURT :

. After having heard both sides, we find that the petitioner has approached this Court complaining that his vehicle bearing No. MH-20/CT-425 is seized. The petitioner says that, it is registered in his name. He has all the documents to prove that the vehicle belongs to him. As per the permission granted and with regard to quantity and quality of sand to be transported, the petitioner transported the same after he was granted the permission. The petitioner submits that, the sand was loaded on 01st July, 2017 and the prescribed route was taken. The petitioner received a message from the competent authority, which according to petitioner indicates that, there is full compliance with the law.

2. However, the vehicle was seized by Tahsildar Bhokardan on

01st July, 2017 and the complaint is that, he imposed fine of Rs. 1,22,500/- on 25th July, 2017. The petitioner complains that, unless he complies with this demand and deposits the same, his vehicle will not be released. The argument is that, the Tahsildar has no jurisdiction and power to impose fine on the vehicle transporting sand and similar material and that can be done by the Collector. In these circumstances, the petitioner applied to Collector for release of the vehicle by application, copy of which is at page Nos. 13 of the petition. The seized vehicle is lying in the Tahsil Office since 01.07.2017.

3. The petitioner complains that, batteries of the vehicle have been stolen and the diesel as well. There is continuing loss not only because of this theft, but because vehicle cannot be utilized for transporting the sand.

4. After perusing the petition and the annexures thereof, we are of the opinion that, the petitioner claims to have paid the fine in respect of one vehicle. As far as subject vehicle bearing No. MH-20/CT-425 is concerned, the fine is directed to be recovered is Rs. 1,22,500/-. The petitioner is assailing that nothing is payable so long as there is no determination of liability/penalty. He is not obliged to deposit any amount.

5. In this situation, we, therefore, direct the Collector of the district to dispose of his request and application made to him or

treat this petition itself as an application and take a decision within a period of one week from today. In the meanwhile, the petitioner shall appear before the concerned Collector on 29.07.2017 at 12.00 p.m. and produce before him the proof of payment of royalty and other fees, so also charges. The petitioner shall also produce authorization/permission to transport sand and other related documents to substantiate and prove his claim. The Collector shall grant personal hearing to the petitioner. Only because of peculiar nature of the case and the stand of the petitioner, the Collector shall pass the requisite order with regard to imposition of penalty or otherwise. In the meanwhile the petitioner shall give personal bond and undertaking that he would duly comply with the order and directions of the competent authority subject to his legal right the vehicle, if, released shall not be plied beyond Aurangabad and Jalna districts. The petitioner shall not dispose of or create any third party right in any manner the subject vehicle. On such undertaking and bond being furnished, the vehicle be released forthwith. The Collector shall pass order in accordance with law. The writ petition is disposed of.

[MANGESH S. PATIL, J.]

[S. C. DHARMADHIKARI, J.]