

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

Writ Petition NO. 3207/2017

[Vijendra s/o Joginder Sharma, Nagpur **V/s** State of Maharashtra and others]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri K.A. Kothari, Advocate for petitioner.
Shri P.S. Thembre, A.G.P. for respondent No. 3.

CORAM : B.P.DHARMADHIKARI & R.B.DEO, JJ

DATED : 19th JUNE, 2017.

Contention is initiation of proceedings of seizure of vehicle, for allegedly carrying excessive sand unauthorizedly, is by incompetent authority. It is further submitted that tractor seized was not produced before the competent authority as per Section 48 (7) of the Maharashtra Land Revenue Code (hereinafter referred to as the Code) and hence, the entire action is vitiated. The learned counsel submits that vehicle is taken in possession on 18.2.2017 and till date the vehicle has not been produced before Collector.

The learned A.G.P. relying upon affidavit urges that though vehicle was detained by Tahsildar Tumsar, it was produced before, Sub Divisional Officer. He, therefore submits that there is compliance with Section 48 (8) of the Code . It is pointed out that penalty of Rs. 46,176/- has been worked out for this

breach and that amount is till now not deposited by the petitioner .

The learned counsel for petitioner, in reply states that as initiation itself is bad, all further proceeding are automatically vitiated. He furthers states that truck was having over loaded sand. Panchanama prepared while taking truck into custody, shows deliberate adjustments and material signature are lacking.

We find that on 18.2.2017 in stead of 3 brass of sand, truck was found carrying 4.44 brass of sand .

The petitioner has chosen to approach this court on 26/5/2017 with grievances noted supra.

Interest of justice , therefore, can be met with by directing the petitioner to deposit Rs. 23,088/- i.e. (50%) of the amount demanded by the respondent with the respondent. The office of Tahsildar, Tumsar shall accept the amount without prejudice to the rights and contention of the parties. The amount be deposited within one week from today. Thereafter, the vehicle of the petitioner shall be immediately released after drawing proper panchanama.

The petitioner is permitted to make proper representation in this respect to Collector, Bhandara. If such a representation is made within three weeks from

today, the Collector shall, after persual of records and after granting an opportunity of hearing to all concerned, pass suitable orders within next four weeks. With these directions, writ petition is partly allowed and disposed of. No order as to cost.

JUDGE

JUDGE