

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2590 OF 2018

Kiran Pandurang Ajabe
Age 27 years, Occ. Business,
R/o. Jamdarwadi,
Tq. Jamkhed, Dist. Ahmednagar.

... Petitioner.

Versus

1. The State of Maharashtra.
Through its Principal Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai.
2. The Collector, Latur,
Dist. Latur.
3. The Sub-Divisional Officer,
Sub Divisional Office, Majalgaon,
Tq. Majalgaon, Dist. Beed.
4. The Tahsildar,
Tahsil Office, Majalgaon,
Tq. Majalgaon, Dist. Beed.
5. The Police Inspector,
Police Station (Rural), Majalgaon,
Dist. Beed.

... Respondents.

Advocate for Petitioners : Mr. Suhas R. Shirsat
AGP for Respondents: Mr. S. S. Dande

CORAM : R.M. BORDE &
K.K. SONAWANE, JJ.

DATE : 15th March, 2018.

ORAL JUDGMENT [PER R.M. BORDE,J]:-

1] Heard. Rule. Rule made returnable forthwith and heard finally by consent of learned counsel for respective parties.

2] The vehicle belonging to the petitioner was apprehended by the respondent authorities on account of transportation of minor minerals at odd hours in breach of the policy prescribed by the State in respect of excavation and transportation of sand. The petitioner is praying for direction to release the vehicle in observance of the procedure prescribed under Section 48(8)(1) of the Maharashtra Land Revenue Code, 1966.

3] It is not in dispute that the petitioner do possess a valid pass for transportation of minor minerals and the minor minerals i.e. sand, which was being transported in the vehicle cannot be said to have been unauthorisedly excavated. The only breach, that is alleged against the petitioner is, in respect of transportation of the minor minerals, i.e. sand between the odd hours i.e. beyond 6 O' Clock in the evening and prior to 6 O clock in the morning. The vehicles were apprehended during the early hours and transportation of minor minerals was in breach of paragraph 11(1)(v) of the Government Resolution dated 03.01.2018. It is an admitted position that the Respondent - Tahsildar has not produced the vehicle within 48 hours after seizure before the Collector or any; other officer authorised by the Collector in that behalf.

4] Learned AGP appearing for the State, on instructions, informs that the vehicle in question would be produced before the concerned Sub Divisional Officer on 19th March, 2018. It would be open for the petitioner to tender an application seeking release of the vehicle to the Sub Divisional Officer on the aforesaid date and the SDO shall, on execution of a personal bond of an amount not exceeding the market value of the seized vehicle as well as an undertaking to the effect that the vehicle in question will not be used for unauthorised extraction, removal, collection, replacement, picking up or disposal of minor minerals and transportation of the same, shall

proceed to direct release of the vehicle. Necessary orders shall be passed on fulfillment of procedural requirements by the petitioner, forthwith.

5] It is alleged in the notice issued by the Tahsildar calling upon the petitioner to explain as to why penalty shall not be levied against him, since the petitioner has transported excess quantity of sand in the vehicle, however, on taking measurement it is noticed that the transportation of sand was not in excess of permissible quantity but the minor minerals i.e. sand was being transported during odd hours and in violation of the directives issued by the State in the Govt. Resolution dated 14.6.2017.

6] In view of the above, It would be open for the concerned authorities to follow the procedure in respect of imposition of penalty. It would also be open for the petitioner to challenge adverse order, if any, directing imposition of penalty. The Sub Divisional Officer, shall in observance of the procedure prescribed under Section 48(8)(1) of the Maharashtra Land Revenue Code, direct release of the vehicle on satisfying the requirements, as indicated above.

7] Rule is made absolute in above terms. There shall be no orders as to costs.

[K.K.SONAWANE, J]

[R.M. BORDE, J]

grt/-