IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
(1) WRIT PETITION NO.2596 OF 2018

Kisan s/o Ramchandra Gadiwadar,
age: 42 years, Occ: Business,
R/o Ujalaiwadi, Taluka Karveer,
District Kolhapur. Petitioner

Versus

01 The State of Maharashtra,
through the Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai 400 032.

02 The Collector,
Collector Office,
Osmanabad.

03 The Deputy Collector,
Collector Office,
Osmanabad.

04 The Tahsildar,
Tahsil Office, Osmanabad,
Taluka Osmanabad,
District Osmanabad. Respondents

Mr.A.B.Kharosekar, advocate for the petitioner.
Mr.P.K.Lakhotiya, A.G.P. for Respondents.

WITH
(2) WRIT PETITION NO.2597 OF 2018

Sudhakar s/o Raosaheb Chabukswar,
age: 47 years, Occ: Business,
R/o Anand Nagar, Osmanabad,
Taluka & District Osmanabad. Petitioner

Versus

01 The State of Maharashtra,

through the Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai 400 032.

02 The Collector,
Collector Office,
Osmanabad.

03 The Deputy Collector,
Collector Office,
Osmanabad.

04 The Tahsildar,
Tahsil Office, Osmanabad,
Taluka Osmanabad,
District Osmanabad. Respondents

Mr.A.B.Kharosekar, advocate for the petitioner.
Mr.S.S.Dande, A.G.P. for Respondents.

WITH
(3) WRIT PETITION NO.2598 OF 2018

Kisan s/o Ramchandra Gadiwadar,
age: 42 years, Occ: Business,
R/o Ujalaiwadi, Taluka Karveer,
District Kolhapur. Petitioner

Versus

01 The State of Maharashtra,
through the Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai 400 032.

02 The Collector,
Collector Office,
Osmanabad.

03 The Deputy Collector,
Collector Office,
Osmanabad.

04 The Tahsildar,
Tahsil Office, Osmanabad,
Taluka Osmanabad,
District Osmanabad. Respondents

Mr.A.B.Kharosekar, advocate for the petitioner.
Mr.P.K.Lakhotiya, A.G.P. for Respondents.

WITH
(4) WRIT PETITION NO.2599 OF 2018

Dashrath s/o Keshav Naikwadi,
age : 35 years, Occ: Business,
R/o At Post Koudgaon,
Taluka & District Osmanabad. Petitioner

Versus

01 The State of Maharashtra,
through the Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai 400 032.

02 The Collector,
Collector Office,
Osmanabad.

03 The Deputy Collector,
Collector Office,
Osmanabad.

04 The Tahsildar,
Tahsil Office, Osmanabad,
Taluka Osmanabad,
District Osmanabad. Respondents

Mr.A.B.Kharosekar, advocate for the petitioner.
Mr.P.N.Kutti, A.G.P. for Respondents.

WITH
(5) WRIT PETITION NO.2648 OF 2018

Sanjay s/o Sadashiv Pawar,
age: 35 years, Occ: Business,
R/o Shivaji Chowk, Osmanabad,
Taluka & District Osmanabad. Petitioner

Versus

01 The State of Maharashtra,
through the Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai 400 032.

02 The Collector,
Collector Office,
Osmanabad.

03 The Deputy Collector,
Collector Office,
Osmanabad.

04 The Tahsildar,
Tahsil Office, Osmanabad,
Taluka Osmanabad,
District Osmanabad. Respondents

Mr.A.B.Kharosekar, advocate for the petitioner.
Mr.P.K.Lakhotiya, A.G.P. for Respondents.

WITH
(6) WRIT PETITION NO.2649 OF 2018

Pramod s/o Rajaram Bhosale,
age: 32 years, Occ: Business,
R/o Borgaon, Taluka Kawathe Mahakal,
District Sangli. Petitioner

Versus

01 The State of Maharashtra,
through the Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai 400 032.

02 The Collector,
Collector Office,
Osmanabad.

03 The Deputy Collector,
Collector Office,
Osmanabad.

04 The Tahsildar,
Tahsil Office, Osmanabad,
Taluka Osmanabad,
District Osmanabad. Respondents

Mr.A.B.Kharosekar, advocate for the petitioner.
Mr.S.S.Dande, A.G.P. for Respondents.

WITH
(7) WRIT PETITION NO.2646 OF 2018

Pramod s/o Rajaram Bhosale,
age: 32 years, Occ: Business,
R/o Borgaon, Taluka Kawathe Mahakal,
District Sangli. Petitioner

Versus

01 The State of Maharashtra,
through the Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai 400 032.

02 The Collector,
Collector Office,
Osmanabad.

03 The Deputy Collector,
Collector Office,
Osmanabad.

04 The Tahsildar,
Tahsil Office, Osmanabad,
Taluka Osmanabad,
District Osmanabad. Respondents

Mr.A.B.Kharosekar, advocate for the petitioner.
Mr.P.N.Kutti, A.G.P. for Respondents.

**CORAM : R.M.BORDE AND**
**K.K.SONAWANE, JJ.**
**DATE : 09th March, 2018.**

**ORAL JUDGMENT :**

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

2 Rule. Rule made returnable forthwith and heard finally by consent of learned Counsel for respective parties.

3 The vehicles belonging to the petitioners were 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 petitioners are praying for direction to release the vehicles in observance of the procedure prescribed under Section 48(8)(1) of the Maharashtra Land Revenue Code, 1966.

4 It is not in dispute that the petitioners do possess 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 petitioners, 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 vehicles within 48 hours after seizure before the Collector or any other officer authorised by the Collector in that behalf.

5 Learned A.G.P. appearing for the State, on instructions, informs that the Tahsildar, who is present in the Court, would observe mandate of Section 48(8) (1) & (2) and would produce the vehicles before the Sub Divisional Officer on 12.03.2018. It would be open for the petitioners to tender application/s seeking release of the vehicles to the Sub Divisional Officer on the aforesaid date and the Sub Divisional Officer 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/s 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 vehicles. Necessary orders shall be passed on fulfillment of procedural requirements by the petitioners, forthwith.

6 That, so far as notices issued by the Tahsildar, calling upon the petitioners to explain as to why penalty shall not be levied against them, appears to have been issued without application of mind to the record of the case. It is alleged by the

Tahsildar in the notice that transportation of sand by the petitioners is without making payment of royalty and transportation of minor minerals is illegal. It does appear that the petitioners who were transporting minor minerals were having a valid pass and there is no allegation in respect of unauthorised excavation of sand by the concerned petitioners. The only breach, that has been alleged, is in respect of transportation of sand during the hours beyond permissible time frame provided under clause 11(1)(v) of the Government Resolution dated 03.01.2018. Since, the notices issued by the Tahsildar, *prima facie*, appears to be without application of mind to the record of the case, same stand quashed and set aside. It would, however, be permissible for the Tahsildar to take steps as permissible in law.

7 Rule is accordingly made absolute. There shall be no order as to costs.

**K.K.SONAWANE**
**JUDGE**

**R.M.BORDE**
**JUDGE**

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