

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.11174 OF 2018

Madhav s/o Shankar Umate,
Age-60 years, Occu:Agril.,
R/o-Wasari, Tq-Mudkhed,
Dist-Nanded

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through its Secretary,
Revenue and Forest Department,
Mantralaya,
Mumbai,
- 2) The District Collector,
Nanded, Dist-Nanded,
- 3) The Sub Divisional Officer,
Umri, Tq-Umri,
Dist-Nanded,
- 4) The Tahsildar, Umri,
Tq-Umri, Dist-Nanded,
- 5) The Talathi,
Badegaon, Tq-Umri,
Dist-Nanded.

...RESPONDENTS

...

Mr.R.A. Jaiswal Advocate for Petitioner.
Mr.P.S. Patil, A.G.P. for Respondent
Nos. 1 to 5.

...

**CORAM: S.S. SHINDE AND
K.K. SONAWANE, JJ.**

DATE OF RESERVING JUDGMENT : 27TH NOVEMBER, 2018

DATE OF PRONOUNCING JUDGMENT: 10TH DECEMBER, 2018

JUDGMENT [PER S.S. SHINDE, J.] :

1. Rule. Rule made returnable forthwith and heard finally with the consent of the learned counsel appearing for the parties.

2. This Petition under Article 226 of the Constitution of India is filed by the Petitioner, praying therein to direct Respondent Nos.2 to 5 to release the Tipper (vehicle) bearing No.MH-12-DG-9920 of the Petitioner forthwith, which has been seized under a panchnama drawn by the Talathi.

3. So far as allegations of illegal transportation of sand are concerned, the Petitioner submits that on 7th September, 2018, the Petitioner has parked his vehicle at village Badegaon, Tq-Umri, for agricultural purpose. The Petitioner was not aware about any illegal sand excavated and the Petitioner is not related to any sand stock.

4. Learned counsel appearing for the Petitioner submits that it is not permissible for revenue authority below the rank of Tahsildar to seize the vehicle. Learned counsel invites our attention to Section 48(8)(1) of the Maharashtra Land Revenue Code (for short "M.L.R. Code"), which provides that without prejudice to the provisions of Sub-section (7), the Collector or any revenue officer not below the rank of Tahsildar authorized by the Collector in this behalf, may seize and

confiscate any mineral extracted, removed, collected, replaced, picked up or disposed of from any mine, quarry or other place referred in Sub-section (7) of the M.L.R. Code, the right to which vests in, and has not been assigned by the State Government, and may also seize and confiscate any machinery and equipments used for unauthorized extraction, removal, collection, replacement, picking up or disposal of minor minerals and any means of transport deployed to transport the same.

5. In the instant matter, the vehicle of the Petitioner has been seized by the office below the rank of Tahasildar i.e. Talathi, therefore, the action of seizure of the vehicle is bad in law. The Respondent authorities are thus bound to release the vehicle which has been seized illegally. The order passed by the Respondents directing seizure of vehicle under the panchnama drawn by the Talathi is, therefore, quashed and

set aside. The Respondent Nos.2 to 5 are directed to release forthwith the vehicle of the Petitioner, seized under the panchnama.

6. Rule is made absolute on the above terms. The Writ Petition stands disposed of, accordingly.

[K.K. SONAWANE, J.]

[S.S. SHINDE, J.]

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