

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

WRIT PETITION NO. 3152 OF 2018

(VIJAY RUPCHAND INDORE & OTH...VS..STATE OF MAHARASHTRA & OTH.)

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

Court's or Judge's orders

Shri S.N. Nandeshwar, Advocate for Petitioner.
Shri P.S.Tembhre, A.G.P. for Respondent Nos.1 to 3 & 6.

CORAM : B.P.DHARMADHIKARI AND
Z.A.HAQ, JJ.

DATED : AUGUST 07, 2018.

1. Heard for sometime.
2. Admittedly, Mini Truck bearing registration No. MH-28-H-6219 carrying one brass sand (minor mineral) was taken in possession by the respondents at village Dharel.
2. Case of the respondents is, sand was to be unloaded at a place in Warud tahsil in Amravati district. The road to Warud does not pass through village Dharel. The truck of the petitioner was therefore, found at a wrong place and hence, rightly the vehicle has been detained.
3. The petitioner submits that the shortest route available to go to Warud proceeds through Dharel only.
4. This defence that shortest way proceeds through Dharel is taken in the writ petition also, before that such a stand is taken in appeal filed under Section 247 of the Maharashtra Land Revenue Code before Sub-Divisional Officer, Akot. This specific statement has not been refuted by the respondents.

5. The respondents reiterate their contention namely if sand was to be unloaded at Warud, the Mini Truck could not have been at Dharel. However, this is not being demonstrated by the respondents herein. The petitioner has produced before us a map downloaded from Google Maps to show that two routes are available and the other route which proceeds from Akola-Amravati is a longer route. The availability of any third route is not demonstrated by the respondents. But in the impugned order they mention that the Mini Truck could have proceeded by the route Telhara-Akot-Anjangaon-Chandur Bazar-Morshi and then to Warud.

6. The truck was carrying only one brass sand and there is no previous history of any wrong transport by the petitioner.

7. In this situation, we have asked the respondents to point out to the Court any provision which obliged the petitioner to follow a specific route. Admittedly, in transport permit no such route is prescribed and the sand was being carried with valid Transport Permit, during day time.

8. We, in the circumstances, quash and set aside the order dated 05/05/2018 and direct the respondents to release the sand and Mini Truck, 407 Model, bearing Registration No. MH-28-H-6219 to the petitioner within next three days.

9. The petition is **disposed of** accordingly. No costs.

(Z.A.Haq, J)

(B.P.Dharmadhikari,J)