

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

1053 WRIT PETITION NO.1166 OF 2019

**CHANDRAKANT GANPATI SANGAV
VERSUS
THE STATE OF MAHARASHTRA AD OTHERS**

...
Advocate for Petitioners : Mr. Jaiswal Rupesh A.
AGP for Respondent: Mr. S.G. Karlekar

...
**CORAM : S. V. GANGAPURWALA AND
MANGESH S. PATIL, JJ.**

DATE : 16/08/2019

PER COURT :

1. Mr. Jaiswal, the learned counsel submits that the petitioner has a valid permit for transportation of the mine and mineral. The Circle Officer has seized the vehicle. The Circle Officer does not have jurisdiction. The penalty is also imposed upon the petitioner.
2. Mr. Karlekar, the learned A.G.P. submits that the petitioner has a remedy of appeal under the provision of the Maharashtra Land Revenue Code. The authorities have rightly seized the vehicle. Apart from the penalty of illegal transportation of the value of the mine and mineral, the penalty is also imposed upon the vehicle. We are considering the present petition only to the extent of release of vehicle. As far as the penalty is concerned, the petitioner may avail the remedy of appeal.

3. The seizer appears to be done by the Circle Officer. It has been held in the catena of judgments that an officer below the rank of Tahsildar does not have the powers to seize the vehicle. Considering the above, we pass the following order.

ORDER

- i) The respondent shall release the vehicle seized under the Panchnama dated 18.11.2018 (Exh. B Page.14) after confirming the genuineness of the documents and the ownership of the petitioner so also getting the bond executed to the satisfaction of the authorities.
 - ii) The petitioner shall also deposit Rs.50,000/- with the respondents towards fine of the vehicle. The said deposit is without prejudice to the contentions of either parties and will always be subject to the decision that would be taken in the proceedings filed by the petitioner challenging the penalty.
4. Writ petition is accordingly disposed of. No costs.

(MANGESH S. PATIL, J.)

(S. V. GANGAPURWALA, J.)