

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

WRIT PETITION NO.2048 OF 2019

Vasant Lotan Kumbhar
Age 55 years, Occu. Business
R/o. Ravange Budruk,
Tal. Erandol, Dist. Jalgaon

... Petitioner

VERSUS

1. State of Maharashtra
Through Secretary
Revenue and Forest Department
Mantralaya Mumbai - 32.
2. The Collector, Jalgaon
Dist. Jalgaon.
3. Sub Divisional Officer,
Erandol, Dist. Jalgaon.
4. The Tahasildar, Erandol,
Tal. Erandol, Dist. Jalgaon

....

Mr. Rakesh N. Jain, Advocate for Petitioner;
Mr. A.R. Kale, A.G.P. for Respondent Nos. 1 to 4.

....

**CORAM : PRASANNA B. VARALE
AND
S.M. GAVHANE, JJ**

DATED : 04th MARCH, 2019

PER COURT:-

1. Heard the learned counsel for the petitioner.
2. The petitioner is challenged the notice issued by the Tahsildar, Erandol dated 29.06.2018 placed on record at Exhibit 'B'. The counsel for the Petitioner invited our attention to the documents placed on record to submit that the vehicle of the petitioner was confiscated and seized by the authority on the

allegation for transporting the mineral without valid permit. Copy of the *Panchanama* is placed on record at Exhibit 'A'. The notice issued by the Tahsildar against the petitioner directing penalty to the Petitioner is also placed on record at Exhibit 'C'. The learned counsel submitted that the vehicle was seized under the *Panchanama*, and the signatory authority of the *Panchanama* is Talathi of various *sajja*. The learned counsel submits that the exercise of seizure of vehicle through Talathi is held to be impermissible and unsustainable in view of the various orders of this Court. Counsel for the Petitioner invited our attention to the order of this Court in Writ Petition No.13766/2018. The reference is made to the earlier judgment dated 06.10.2018 in order dated 20.12.2018. The learned counsel has placed heavy reliance on the order dated 28.12.2018.

3. As the fact is not in dispute that the Tahsildar undertook the exercise through seizure of vehicle, we see no reason to take diffident view than the order dated 20.12.2018 passed by the Division Bench of this Court in Writ Petition No.13766/2018. Accordingly, Petition is partly allowed. The order passed by the Respondent authorities, directing seizure of the vehicle under *Panchanama* drawn by the Talathi is quashed and set aside. The Respondent authorities is directed to release the vehicle forthwith.

4. In so far as the aspect of imposing penalty is concerned, the Petitioner can certainly avail the remedy, which is alternate and efficacious to approach the competent authority, raising the grievance against imposition of penalty. Thus, keeping the liberty to the petitioner open to avail alternate remedy to challenge imposition of penalty, the petition is disposed of.

(S.M. GAVHANE)
JUDGE

(PRASANNA B. VARALE)
JUDGE

Sudhir Rane