

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

902 WRIT PETITION NO.2790 OF 2019

SOMNATH ASHOK GARAD AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Mr Kanade Angad L
AGP for Respondents State: Mrs G. L. Deshpande

**CORAM : S. V. GANGAPURWALA &
ANIL S. KILOR, JJ.**

DATE : 24th September, 2019

ORDER:

1. The petitioners seek release of JCB machine. Affidavit is filed on behalf of the respondents to the effect that penalty is levied and other fine is also imposed for the illegal transportation of minor minerals. According to the learned counsel for the petitioners, seizure is against the well established procedure. The Circle officer does not have jurisdiction to seize vehicles.

2. It is trite that seizure has to be by an officer not below the rank of Tahsildar. The fine/penalty is also imposed on the machine to the extent of Rs.7,50,000/-. As far as the amount of fine and penalty is concerned the petitioners may avail remedy of Appeal under the Maharashtra Land Revenue Code.

3. The petitioners shall deposit an amount of Rs.2,00,000/- with the respondents. Upon deposit of Rs.2,00,000/-, the respondent Authority shall release the vehicle -JCB Machine in favour of the petitioners.

4. The JCB Machine seized under panchanama dated 02.02.2019 (page 10) shall be released after verifying the documents and ownership of the vehicle. The respondents are entitled to take bond to their satisfaction.

5. The amount of deposit of Rs.2,00,000/- by the petitioners under the orders of this Court would be subject to further decision that would be taken by the authority in an appeal to be filed by the petitioners. If the appeal is not filed by the petitioners, then the respondents will be entitled to take further steps for recovery of the amount.

6. Writ Petition is disposed of. No costs.

(ANIL S. KILOR, J.)

(S.V.GANGAPURWALA, J.)

JPC