

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CONTEMPT PETITION NO. 483 OF 2019 IN
WRIT PETITION NO. 6688 OF 2019

Arif s/o Babulal Shaikh

Petitioner

Versus

Mr. Rahul Dwivedi
& others

Respondents

Mr. Majit S. Shaikh, Advocate for the petitioner.
Mr. K.S. Patil, AGP for respondents.

**CORAM : PRASANNA B. VARALE &
A. G. GHAROTE, JJ.**

DATE : 27th August, 2019.

PER COURT :

1. Heard learned counsel for the petitioner.
2. On a grievance that inspite of order of this Court dated 11.06.2019 in Writ Petition No. 6688/2019, the vehicle of the petitioner is not released by the authorities, the petition is preferred in this Court.
3. Perusal of the order dated 11.06.2019 shows that the respondents-authorities initiated proceedings against the petitioner and orders in respect of imposing penalty and fine are passed. It is also admitted position that petitioner had availed the remedy of appeal and, prayer for release of vehicle is made on the ground

that seizure of vehicle was at the behest of the Talathi. The Division Bench of this Court was pleased to observe that the seizure of vehicle was by the officer below the rank of Tahsildar. By taking this view by relying on the order dated 06.10.2018 passed by this Court in Writ Petition No. 10942/2018, the Division Bench disposed of the petition by quashing and setting aside the order impugned. Respondents were directed to release the seized vehicle under the panchanama after verifying the documents and confirming about the ownership of the vehicle that of the petitioner. It was submitted before this Court that the petitioner had approached the authority by submitting application for release of vehicle referring to the order of this Court. Copy of the application dated 19.06.2019 is also placed on record.

4. It seems that as the copy of the petition was served on the office of the Government Pleader, instructions were sought for and an affidavit-in-reply is filed on behalf of respondent no. 4 through Mr. Yogesh Vitthal Chandre, Tahsildar, Kopargaon. Perusal of affidavit-in-reply shows that the petitioner was served with a notice dated 21.06.2019 seeking recovery of amount to the tune of Rs. 1,35,400/-. Alongwith penalty, the amount was quantified to the tune of Rs. 1,35,430/-. Document under the title *Taba Pavati* is placed on record alongwith affidavit-in-reply to submit that the vehicle is handed over to the petitioner on 01.07.2019 in compliance of the order of this Court. Said document refers the date as 01.07.2019 and time as 12.45 pm. This document bears the signature of the person in whose possession the vehicle was handed over i.e. the petitioner. Affidavit-in-reply shows that on the very day i.e. 01.07.2019, the vehicle was re-seized by the

authorities on the ground that petitioner failed to deposit the amount of Rs. 1,69,250/- (Rs. 1,35,400/- + 1/4th of the amount to the tune of Rs. 33,850/-) claimed by the revenue authorities. Copy of the panchanama is placed on record to show that the vehicle was re-seized at 1.35 hours on 01.07.2019, which however does not bear the signature of the petitioner, in whose possession it was deemed to have been handed over under the possession receipt dated 01.07.2019.

5. This sequence of events shows that the act of release of vehicle was only on paper and in reality, the vehicle of the petitioner was not at all released in favour of the petitioner. Petitioner has placed on record copy of the appeal preferred before the Sub-Divisional Officer against the order of recovery of amount to the tune of Rs. 1,35,400/-. Petitioner also submitted an application alongwith appeal and stated that he is ready to deposit Rs.33,850/- i.e. 1/4th of the amount either at the time of filing appeal or as and when the authority would direct. This fact clearly shows that the petitioner was ready to deposit certain amount for consideration of his appeal. Learned counsel for the petitioner submits that inspite of willingness being shown by the petitioner, the authorities neither accepted the appeal nor released the vehicle of the petitioner. This fact clearly shows that the petitioner was put to prejudice by the act of respondents-authorities firstly, by releasing the vehicle only on paper and secondly, by not accepting the appeal inspite of petitioner showing his willingness to deposit the amount.

6. Learned AGP submits that though the authorities committed

certain error, the authorities be permitted to correct the same by directing the petitioner to deposit 50% of the amount of Rs.1,35,400/- before the appellate authority and on such deposit, the vehicle of the petitioner would be released immediately. Learned AGP further submits that such deposit of amount would be subject to the decision in the appeal and this condition would not cause any prejudice to the petitioner.

7. In view of this, we are of the opinion that the submission of learned AGP is worth consideration and would cause no prejudice to either of the parties and would result in compliance of the order of this Court in letter and spirit. At the same time, we do not hesitate to observe that the authorities are expected to act more vigilantly and are duty bound to show due respect of the order of this Court. We also expect that in future better sense would prevail on the respondents-authorities while discharging their duties.

8. Learned counsel for petitioner, on instructions, submits before this Court that petitioner would deposit 50% of the amount before the appellate authority within a period of two weeks. On such deposit, respondents-authorities are directed to release the vehicle of the petitioner forthwith. In case the appeal is decided against the petitioner, the authorities will be entitled to take such steps, as in law, would be available to them for recovery of the balance amount.

9. With the above directions, petition stands disposed of.

10. Parties to act upon authenticated copy of this order.

(A. G. GHAROTE)
JUDGE

dyb/

(PRASANNA B. VARALE)
JUDGE