

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

98 WRIT PETITION NO.10208 OF 2019

**NITIN KALYAN KAWDE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for Petitioner : Shri A.B. Kharosekar
AGP for Respondents / State : Shri S.P. Tiwari
...

**CORAM : S.V. GANGAPURWALA & AVINASH G. GHAROTE, JJ.
Dated: November 05, 2019**

...

PER COURT :-

1. The vehicle of the petitioner is seized for illegal transportation of minor minerals. Penalty is also imposed upon the petitioner.

2. We would consider the present petition only to the extent of seizure of the vehicle. As far as the imposition of penalty and fine is concerned, the petitioner has remedy of appeal. The petitioner may avail the same.

3. It is submitted that, the vehicle has been seized under the panchanama by the Talathi and the Circle Officer, prior to the amendment dated 16.09.2019. It has been held by this Court in the catena of matters that the seizure of the vehicle by the Officer below the rank of Tahsildar is without authority. Considering the above, we pass the following order.

ORDER

- (i) The respondents shall release the vehicle seized under the panchanama dt. 03.08.2019 (Pg no.15) upon the petitioner depositing Rs. 1,00,000/- (Rupees One Lakh).
- (ii) The respondents shall verify the documents and ownership of the petitioner before release of the vehicle.
- (iii) The respondents can also get the bond executed from the petitioner.
- (iv) The deposit of amount of Rs. 1,00,000/- (Rupees One Lakh) is subject to the decision that would be taken by the Authority in the appeal filed by the petitioner. In case, the petitioner does not file the appeal against the penalty imposed, the respondents are entitled to recover the amount of fine/penalty so also take action as regards the vehicle.
- (v) Writ Petition accordingly disposed of. No costs.

[AVINASH G. GHAROTE]
JUDGE

[S. V. GANGAPURWALA]
JUDGE