

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

WRIT PETITION STAMP NO. 10974 OF 2020

Arun Sadhu Gondal

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri Amol K. Gawali, Advocate for the Petitioner.

Shri A. S. Shinde, A.G.P. for Respondent Nos. 1 to 3.

**CORAM : S. V. GANGAPURWALA AND
R. G. AVACHAT, JJ.**

DATE : 06TH JULY, 2020.

FINAL ORDER :

1. Heard Mr. Gawali, the learned advocate for the petitioner. The learned advocate submits that, action of imposing penalty on the petitioner is without jurisdiction. The vehicle of the petitioner has not been seized by respondents. Unless the vehicle of the petitioner is seized, the respondents did not get authority to impose penalty. Seizure of the vehicle can only be by panchanama. The learned counsel relies on the judgment of this Court in a case of Rumao Constructions and others Vs. State of Maharashtra reported in *2010(6) Bom.C.R. 236*. The learned counsel submits that, in such a case the petitioner may not be relegated to the alternate remedy. The action is per-se and ex-facie illegal.

2. The learned Assistant Government Pleader for respondents submits that, the petitioner has remedy of appeal. In fact,

vehicle was seized, however, the petitioner gave a statement that he is not in a possession to bring that vehicle in the Tahsil Office and had assured that he would not remove the vehicle from that place.

3. It is not disputed that, the petitioner has remedy of appeal against the impugned order imposing penalty. Whether the vehicle is seized or not would be considered by the appellate authority. In appeal all the averments would be open for the petitioner.

4. The petitioner may file an appeal before the appellate authority. In case the appeal is filed by the petitioner against the impugned order, the appellate authority shall endeavour to decide the said appeal expeditiously and preferably within a period of one (01) month from the date of filing.

5. In the light of the above, the writ petition is disposed of. No costs.

[R. G. AVACHAT, J.]

[S. V. GANGAPURWALA, J.]

bsb/July 20