

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

WRIT PETITION NO. 7117 OF 2020

Pandurang Mahipati Kusale
Through authorized person
namely Anup Ashokkumar Lathi

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Mr. B. S. Deshmukh, Advocate for the Petitioner.
Mr. S. K. Tambe, AGP for Respondent Nos. 1 to 3.

**CORAM : S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.**

DATED : 26th OCTOBER, 2020.

PER COURT:-

. The petitioner is challenging the memo dated 21.09.2020 and further praying for release of the vehicle detained by the respondents.

2. Mr. Deshmukh, learned counsel for the petitioner submits that the detention of the vehicle is illegal. The vehicle is registered in Nagaland State. The permit has been issued. No illegalities are committed.

3. According to the learned A.G.P. the vehicle is not in tune with the requirements of the Motor Vehicle Act. The rear over hang of vehicle is

4.20 meters which is illegal. The learned A.G.P submits that the vehicle now is not under detention. The suspension order is issued under Section 53 (1) (a) of the Motor Vehicle Act, 1988.

4. According to the petitioner, the order of suspension is subsequent and the same is without adhering to the principles of natural justice.

5. The learned A.G.P submits that as the vehicle is not under detention, the petitioner may get the vehicle on submitting the undertaking to the authority.

6. As statement has been made that the vehicle is not under detention, the petitioner may approach the authority for release of vehicle as contended by the learned A.G.P. The authority shall get undertaking from the petitioner and release the vehicle to the petitioner.

7. Needless to state that unless the order of suspension is set aside the petitioner cannot ply the vehicle.

8. The learned A.G.P submits that the petitioner has remedy of appeal.

9. The petitioner may avail remedy of appeal. If such an appeal is

filed by the petitioner, the decision on the same shall be taken expeditiously and preferably within a period of fifteen (15) days from the date of filing of appeal.

10. Writ petition accordingly is disposed of. No costs.

(SHRIKANT D. KULKARNI)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

PS.B.