

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

WRIT PETITION NO. 15386 OF 2019

Akhil Mustafa Shaikh

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Mr. Govind R. Ingole, Advocate for Petitioner.

Mr. S. P. Tiwari, AGP for Respondent Nos. 1 to 5.

**CORAM : S. V. GANGAPURWALA &
MANGESH S. PATIL, JJ.**

DATED : 14th JANUARY, 2020.

PER COURT:-

. The learned counsel for the petitioner submits that the vehicle of the petitioner / J.C.B. has been seized illegally. The petitioner has not indulged in any illegal activity. According to the learned counsel, fine and penalty is also levied. The panchanama is prepared by the Talathi who at the relevant time did not possess the authority and jurisdiction.

2. We have also heard the learned A. G. P

3. The vehicle is seized under panchanama dated 10.01.2019. The same appears to be by a Circle Officer. Prior to 16.09.2019, the Circle Officer did not possess the jurisdiction to seize the vehicle resorting to section 48 of the Maharashtra Land Revenue Code. The amendment

has been made on 16.09.2019 in Maharashtra Land Revenue Code. As far as the fine and penalty is concerned, the petitioner may avail the remedy of appeal.

4. In the light of the above, we pass the following order.

5. The respondents shall release the vehicle / J.C.B. seized from the petitioner under panchanama dated 10.01.2019 after verifying the ownership of the petitioner and the genuineness of the documents. The respondents shall get executed a bond from the petitioner to their satisfaction. The petitioner shall deposit the amount of Rs. 2,50,000/- (Rupees Two Lakh Fifty Thousand only) with the respondents. The said deposit of amount shall be without prejudice to the rights and contentions of either of the parties and subject to the decision that would be taken by the appellate authority in appeal filed by the petitioner. If the petitioner does not file appeal within a period of 30 days from today, then respondents are at liberty to recover the amount and also re-possess the vehicle.

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

(MANGESH S. PATIL)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

RS.B.