

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

85 WRIT PETITION NO.8267 OF 2020

AASMAN NABAJI GAT
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr A B Kharosekar
AGP for Respondents State: Mr P K Lakhotiya

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

DATE : 1st March, 2021.

ORDER:

1. Mr Kharosekar, the learned Advocate for the petitioner submits that the Tahsildar had directed Panchanama to be conducted. Panchanama was conducted in July, 2020. Trolley was empty. Report has been filed on record. According to the learned counsel, the respondents did not have jurisdiction to detain vehicle of the petitioner. Penalty has also been wrongly imposed upon the petitioner. The trolley was in their possession since February, 2020.
2. The learned A.G.P. submits that subsequent panchanama is without jurisdiction and authority. Already, panchanama was held and penalty was also levied.
3. The facts emerging on record demonstrate a disturbing picture. Vehicle of the petitioner was seized under Panchanama dated 10th February, 2020. Trolley was found to possess one brass of sand and that too without permit to transport the sand, the same was transported on

15.02.2020. Penalty was also imposed of Rs.1.32 lac.

4. It appears that on 23.07.2020, application was made by the petitioner to the Tahsildar that his tractor was empty and empty tractor was seized, enquiry be made. Tahsildar, pursuant thereto, wrote to the Circle Officer and Deputy Engineer, referring to the application dated 23.07.2020 and directing them to have joint inspection of the vehicles. Panchanama was made on 19.08.2020, wherein, it is stated that in the Tractor, cow dung appeared and nothing has been found in the trolley.

5. We fail to understand the fresh panchanama when already order of penalty was passed and panchanama was also made and in the panchanama it was specifically observed that trolley contains one brass of sand and tractor was transporting sand without permit. The place from where the sand was excavated was detailed. The question of fresh panchanama, after six months, does not stand to reason. The petitioner also could not have given application to the same authority again that too after 5 to 6 months. The petitioner was required to file appeal. Instead, he waited for 5 to 6 months and thereafter filed application before the same authority.

6. The petitioner is at liberty to file appeal before the Additional Collector. Considering that in the matter, affidavit is filed by the S.D.O. , an appeal to the S.D.O. would be meaningless.

7. If the petitioner files appeal before the Additional Collector, the

same shall be decided expeditiously, on its own merits, preferably within two months from the date the appeal is filed.

8. Writ petition disposed of. No costs.

(SHRIKANT D. KULKARNI, J.)

(S.V.GANGAPURWALA, J.)

JPC