

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL APPLICATION NO. 247 OF 2021

Shree Rajeshree Transport
(through its Partner – Surendra Singh Rathod) ...Applicant
Versus
The State of Maharashtra and Ors ...Respondents

Mr. S. V. Marwadi i/b Mr. N. M. Nadar, for the Applicant.

Mr. A. R. Patil, A.P.P for the Respondent Nos.1 and 2.

CORAM : REVATI MOHITE DERE, J.

DATE : 30th AUGUST, 2021

P.C. :

1. Heard learned Counsel for the parties.
2. By this application, the applicant has impugned the order dated 4th February 2021, passed by the District Collector, Palghar, by which the District Collector passed the impugned order without hearing the applicant.
3. Perused the papers. The applicant is a partnership firm looked after by the present partner. The applicant's truck was seized on 13th October 2020. It appears that after the truck was seized, the applicant filed an application before the learned Magistrate on 16th October 2020 seeking release of the truck as well as seized oil by submitting that it is not bio-

diesel as claimed by the police. The learned Magistrate called for say of the respondents. The District Collector was also a party to the said application. The District Collector informed the learned Magistrate that they have not conducted any inquiry with respect to the said seizure. Pursuant to which, the learned Magistrate vide order dated 2nd January 2021, rejected the said application by observing that since the proceedings were pending before the learned Collector, the said application could not be entertained.

4. It appears that the District Collector – respondent No.3 herein commenced with the proceedings only *qua* Mukesh Rawat and Vikas Khatri. Admittedly, the applicant was not informed of the said proceedings before the learned Collector despite the applicant being the owner of the said vehicle. Infact, according to the learned counsel for the applicant, the tax invoice clearly shows the name of the applicant, as purchaser of the said oil and as such the District Collector ought to have informed the applicant of the proceedings. It appears that the applicant had preferred an application before the learned Magistrate seeking release of the truck as well as seized oil. The learned Magistrate vide order dated 2nd January 2021, rejected the said application by observing that since proceedings were pending before the learned Collector, the said application could not be entertained.

5. Learned APP does not dispute the fact that the applicant was not heard by the District Collector before the impugned order dated 4th February 2021 was passed. He submits that the impugned order can be quashed and the matter be remitted back to the District Collector, for fresh consideration and for passing appropriate orders after hearing the applicant.

6. Accordingly, the impugned order dated 4th February 2021, passed by the District Collector, Palghar, is quashed and set aside and the matter is remitted back to the District Collector, Palghar, for fresh consideration.

7. The District Collector, Palghar shall pass appropriate orders after hearing the parties, including the applicant.

8. Application is accordingly disposed of on aforesaid terms. It is made clear, that this application has not been heard on merits and as such all contentions of all parties are kept open.

9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.