

PMB

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

WRIT PETITION NO.4920 OF 2021

Ibrahim Patel and anr. .. Petitioners

Vs.

The State of Maharashtra .. Respondent

Mr. Jitendra R. Gautam for the Petitioners.

Mr. P.V. Nelson Rajan, AGP for the State.

CORAM : M.S.KARNIK, J.

DATE : SEPTEMBER 1, 2021

P.C.

Heard learned counsel for the parties.

2. Learned counsel for the Petitioners submitted that the learned Tahsildar, Thane by the impugned order dated 14.07.2021 has seized the Truck bearing No.MH-46-BM-3901 of the Petitioners and also imposed a fine. The allegation is that the Petitioners were transporting minor minerals in contravention of the provisions of law. The value of the minor minerals assessed by the Tahsildar is Rs.42,400/- and penalty of Rs.2 lakhs is imposed apart from seizure of the Truck. It is his contention that the income from operating the Truck is only source of livelihood. Learned counsel submits that he is ready to abide by the conditions imposed by this Court and requests that the Truck may be released.

3. Learned AGP on the other hand opposed the Petition on the ground that the same is not maintainable. According to learned AGP, the Petitioners have an alternate efficacious remedy of filing an Appeal before the Sub-Divisional Officer (SDO) under Section 247 of the Maharashtra Land Revenue Code, 1966.

4. Learned counsel for the Petitioners submits that they will file the Appeal before the SDO but so far as the Truck is concerned, they pray that the same may be released. As the Petitioners are willing to furnish the security, in my opinion, the Truck which otherwise will simply deteriorate if it is allowed to remain in the present condition, the same can be released on certain terms and conditions. Hence, the following order :-

ORDER

- (i) The Tahsildar is requested to release the Truck bearing No.MH-46-BM-3901 on the Petitioners' depositing an amount of Rs.1 Lakh with the Tahsildar, Thane as a security.
- (ii) The said amount to be deposited within a period of two weeks from today. On the deposit of the said amount the Truck shall be released.
- (iii) The Petitioners to file an Appeal challenging the order of the Tahsildar, Thane within a period of two weeks from today.
- (iv) The Petitioners to undertake that they will not deal with or dispose of or otherwise sell the Truck during the pendency of the Appeal before the SDO and that the same will be used for legitimate business purposes.

(v) The Truck shall be produced as and when asked for by the Tahsildar, Thane.

(vi) The undertaking and deposit shall be abide by the decision in the Appeal preferred before the SDO.

(vii) It is clarified that if the Appeal is not filed within a period of two weeks from today, the Petitioners shall surrender the Truck before the Tahsildar, Thane and thereupon it is open for the Tahsildar, Thane to take appropriate action.

5. The Writ Petition is disposed of.

(M.S.KARNIK, J.)

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