

DDR

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

WRIT PETITION NO. 4179 OF 2021

BAPU RANGNATH NAIKWADE	..PETITIONER
VS.	
STATE OF MAHARASHTRA & ORS.	..RESPONDENTS

Mr. J.D.Khairnar for the petitioner.
Mr. A.P.Vanarse, AGP for the State.

CORAM : M.S.KARNIK, J.

DATE : AUGUST 18, 2021

P.C.:-

Heard learned counsel for the petitioner.

2. The challenge in this Petition is to an order passed by the respondent No.2 – the Additional Commissioner in RTS/Appeal No. 251/2021 under the provisions of the Maharashtra Land Revenue Code ('the Code' for short). By the order dated 24/5/2021 the Tahsildar has directed the petitioner to pay a sum of Rs.3,50,240/- which included penalty for unauthorised transportation of six brass sand. The truck is seized.

3. Learned counsel for the petitioner submits that his truck bearing No. MH-18-BG-7239 was seized as far back as on

5/3/2021. It is the submission of the petitioner that this is his only source of livelihood.

4. Learned AGP submitted that the petitioner has an alternate remedy of filing revision before the State Government against the order dated 26/7/2021 passed by the respondent No.2 - Additional Commissioner. He further submits that for cogent reasons, the Additional Commissioner has rejected the appeal filed by the petitioner.

5. It is the contention of learned counsel for the petitioner that during the pandemic it was difficult to approach the State Government for filing a revision under Section 257 of the Code. He intends to file a revision before the Hon'ble Minister against the impugned order. In the meantime, he prays that the truck may be released.

6. The petitioner is permitted to file a revision before the State Government against the order impugned in this Petition. The said revision will be decided on its own merits. No doubt, the petitioner can file an application for stay in the revision and seek appropriate reliefs. That will however take some time as now even the Additional Commissioner has rejected the appeal. The

following order is passed in the interest of justice as it is the contention of the petitioner that the truck is lying idle since 5/3/2021 and obviously the condition of the truck will only further deteriorate. In the facts of the present case, instead of directing the petitioner to apply for appropriate interim reliefs in the revision which the petitioner proposes to file, in my opinion, in the interest of justice, the following order will meet the ends of justice.

ORDER

- i. The petitioner is at liberty to file a revision before the State Government challenging the order impugned in this Petition within a period of four weeks from today.
- ii. The revision to be decided on its own merits and in accordance with law.
- iii. The truck bearing No. MH-18-BG-7239 of the petitioner be released subject to the petitioner depositing a sum of Rs.75,000/- with the Tahsildar, Nandgoan, within a period of four weeks from today.
- iv. The petitioner shall file an undertaking before the Tahsildar that he shall not dispose of, sell or otherwise part

with the possession of the truck during pendency of the revision before the State Government and that the petitioner's truck will be used only for the legitimate business purposes.

v. The truck shall be produced as and when asked for by the Tahsildar, Nandgaon.

vi. The deposit so made and the release of the truck shall abide by the final orders passed in the revision.

vii. It is made clear that if the revision is not filed within four weeks, then the impugned order will operate and the petitioner shall hand over the possession of the truck to the Tahsildar, Nandgaon.

7. All contentions are kept open.

8. The Writ Petition is disposed of.

(M.S. KARNIK, J.)

Digitally
signed by
DIKSHA
DINESH
RANE
Date:
2021.08.18
19:22:50
+0530