

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

921 WRIT PETITION NO.2318 OF 2022

BASUDEV MATOLIRAM AGRAWAL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. S. K. Mathpati
AGP for Respondents 1 to 5 : Mr. A.S. Shinde
...

**CORAM : R. D. DHANUKA &
S.G. MEHARE, JJ.**
DATED : 13/04/2022.

PER COURT :

1. By this petition filed under Article 226 of Constitution of India, the petitioner seeks to direct the respondent Nos. 4 and 5 to release vehicle No. MH-22/AA-0290 owned by the petitioner and for quashing of show cause notice dated 12.2.2021 and the impugned order dated 8.11.2021 by issuing writ of certiorari.

2. The learned counsel for petitioner invited our attention to the impugned order annexed at page No. 46 of the writ petition and submits that no show cause notice was served upon the petitioner by the Sub Divisional Officer before passing the impugned order and by imposing penalty of Rs.2,88,341/-.

3. Perusal of the said order indicates that the Tahsildar had given 24 hours notice to give reply to the petitioner and since the

petitioner did not give reply within 24 hours, the penalty is imposed. The order was passed after several months from the date of issuance of alleged show cause notice. In our view, the impugned order is passed without following the principles of natural justice and thus, deserves to be quashed and set aside.

4. Hence, the impugned order is quashed and set aside. The matter is remanded back to the concerned authority for considering the show cause notice in accordance with provisions of law.

5. Copy of show cause notice shall be served upon the petitioner within one week from the date of issuance of such notice. The petitioner shall file reply to the show cause notice within two weeks thereafter. The Sub Divisional Officer shall decide the matter within six weeks thereafter.

6. The petitioner is directed to deposit sum of Rs.1,00,000/- (Rupees one lakh) in the office of Tahsildar within one week from today without fail. The amount shall be accepted by the office of Tahsildar. The sum of deposit shall be subject to the outcome of the order passed by the Sub Divisional Officer in the proceeding of show cause notice issued by the Tahsildar.

7. Upon deposit of Rs.1,00,000/- (Rupees one lakh) by the petitioner, the office of Tahsildar shall release the vehicle described in

prayer clause 'B' of the petition without 24 hours thereafter. The petitioner shall not dispose of the said vehicle during the pendency of the proceeding of show cause notice before Sub Divisional Officer.

8. The order that would be passed by the Sub Divisional Officer shall be communicated to the petitioner within one week from the date of passing of such order. If the show cause notice is withdrawn, the amount of Rs.1,00,000/- (Rupees one lakh) deposited by the petitioner shall be refunded to the petitioner and if the order is adverse against the petitioner and if the demand is more than Rs.1,00,000/- (Rupees one lakh), no coercive steps shall be taken against the petitioner for the period of two weeks thereafter.

9. Writ petition is disposed of in aforesaid terms with no order as to costs.

[S.G. MEHARE, J.]

[R. D. DHANUKA, J.]

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