

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

904 WRIT PETITION NO.3157 OF 2022

**NITIN MAHADEV RAUT
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for Petitioner : Mr. Jadhav Hanumant P.
AGP for Respondents : Mr. S.K. Tambe
...

**CORAM : R.D. DHANUKA &
S.G. MEHARE, J.J.**

DATED : 23rd MARCH, 2022

PER COURT:-

1. The petitioner has impugned the communication dated 28.01.2022 issued by respondent no.4, Tahsildar imposing penalty of Rs.7,50,000/- against the petitioner which is confirmed by the order dated 17.02.2022 passed by respondent no.3.

2. The learned counsel for the petitioner states that his client has borrowed the amount from the bank for purchasing the said vehicle in question and is seriously prejudiced in view of the order of penalty of Rs.7,50,000/- imposed by the authority. He further states that his client would file an appeal within a period of two weeks from today before the Second Appellate Authority without fail and if there is any delay, along with the application for condonation of delay. Statement made by the learned counsel is accepted as and by way of

an undertaking before this Court.

3. The learned counsel invited our attention to the judgment of this Court delivered on 21.10.2020 passed by a Division Bench of this Court in Writ Petition No.6911 of 2020 in case of Avadaji S/o Asaram Solankar Vs. The State of Maharashtra and another, in support of his submission that the seizure order be stayed by this Court during the period when the petitioner files appeal before the Second Appellate Authority and would apply for further interim reliefs before such authority.

4. The learned counsel for the petitioner undertakes that his client would deposit 50% of the impugned penalty amount of Rs.7,50,000/- with the office of Tahsildar within two weeks from today without fail. Undertaking is accepted. It is made clear that the Tahsildar shall release the said vehicle to the petitioner only upon the petitioner depositing 50% of the penalty amount with the office of the Tahsildar and not prior thereto.

5. It is made clear that if the petitioner does not file an appeal within a period of two weeks from today before the Second Appellate Authority, the interim protection granted by this Court would stand vacated without reference to the Court. The appellate authority to decide whether to direct the petitioner to deposit any further amount for granting stay to the order of penalty imposed by the authority below. The Second Appellate Authority shall decide the

matter on its own merits without being influenced by the fact that this Court granted the order of release of the vehicle on payment of 50% of the penalty amount subject to the outcome of the said appeal.

6. Writ petition is disposed off in the aforesaid terms. No order as to costs.

7. Parties to act on the authenticated copy of this order.

8. It is made clear that the amount that would be deposited by the petitioner would be subject to the further order that would be passed by the Second Appellate Authority.

(S.G. MEHARE. J.)

(R.D. DHANUKA, J.)