

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7619 OF 2022

NAGNATH GANGARAM JINKALE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
PRINCIPAL SECRETARY AND OTHERS

...
Advocate for the Petitioner : Shri Shembole Gajanan S.
AGP for the Respondents/State : Ms.R.P. Gaur
...

CORAM : RAVINDRA V. GHUGE
&
SANJAY A. DESHMUKH, JJ.

DATE :- 10th October, 2022

Per Court :-

1. The petitioner has put forth prayer clauses B and C
as under :-

“B. By allowing Writ Petition and by issuing writ of mandamus, the respondents/ respondent No.05 be directed to release the truck of the petitioner bearing registration No.MH 04 DD 8480 seized by the respondent No.5, Sub Inspector, Dharmabad Police Station, Dist. Nanded.

C. By issuing Writ of certiorari, the impugned orders/ demand notices dated 30.03.2022 (Exhibit E) and 01.04.2022 (Exhibit H) issued by respondent No.03, Tahasildar, Taluka Dharmabad, Dist. Nanded for payment of penalty amount may kindly be quashed and set aside.”

2. It is contended that the vehicle is seized by the Police Authority. The allegation is that the excess sand was excavated and loaded on the vehicle.

3. The Tahasildar has already passed an order dated 01.04.2022 thereby, imposing penalty upon the petitioner. The petitioner has applied for copies of the Electronic Transport Permit (ETP).

4. The petitioner has a remedy of preferring an appeal before the Sub Divisional Officer. As such, the petitioner has to move the Sub Divisional Officer against the order of the Tahasildar. In the event of a crime being registered, he has to approach the competent court. The writ jurisdiction of the High Court need not be exercised in such matters, when a statutory remedy is available.

5. In view of the above, this Writ Petition is disposed off with liberty to the petitioner to avail of the statutory remedy as may be available in law.