

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7234 OF 2022

Nana S/o Shivaji Jadhav **Petitioner**
VERSUS
The State of Maharashtra & Anr. **Respondents**

ALONGWITH

WRIT PETITION NO. 7235 OF 2022

Santosh S/o Murlidhar Wagh **Petitioner**
VERSUS
The State of Maharashtra & Anr. **Respondents**

ALONGWITH

WRIT PETITION NO. 7236 OF 2022

Amol S/o Dadaji Ahire **Petitioner**
VERSUS
The State of Maharashtra & Anr. **Respondents**

ALONGWITH

WRIT PETITION NO. 7136 OF 2022

Kishor S/o Gajanan Jadhav **Petitioner**
VERSUS
The State of Maharashtra & Ors. **Respondents**

Mr. Deepak D. Pote for the Petitioners in all above writ petitions.

Mr. Karan S. Thorat, A.G.P. for the State – Respondent no.1 in all above writ petitions.

CORAM: R. D. DHANUKA AND
M.G. SEWLIKAR, JJ.

DATE : 20th JUNE, 2022

P.C:-

Rule. Learned A.G.P. waives service for the respondents in all

these petitions.

2. Rule is made returnable forthwith. The facts and issues involved in these petitions are identical.

3. By these petitions filed under Article 226 of the Constitution of India, the petitioners have prayed for writ of certiorari, for quashing and setting aside the show cause notices issued by the respondent nos. 2 and 3 and seek an order and direction against the respondent nos. 2 and 3 to release the vehicle detained by them bearing registration number described in prayer clause (b) of each of the petition.

4. Learned counsel for the petitioners invited our attention to the judgment delivered by Nagpur Bench of this Court in case of ***M/s.Shree Rajesh Pathak vs. State of Maharashtra & Ors.*** in ***Writ Petition No. 2078 of 2021*** and companion matters delivered on 7th April, 2022 and the judgment delivered by Aurangabad Bench of this Court in ***Writ Petition No. 4397 of 2022 in case of Vishal Babasaheb Dube @ Dhube vs The State of Maharashtra & Ors.*** delivered on 26th April, 2022. This Court in the said two judgments have considered the

identical issues and has held that clause (5) of the circular dated 5th February, 2021 issued by the Ministry of Revenue and Forest, Mantralaya, Mumbai is bad in law since the State Government has not been conferred with any authority or power to demand contribution to the DMF of the district on the entry and consequent transport of minor minerals within the State of Maharashtra. This Court accordingly held that the said circular dated 5th February, 2021 shall not operate being excessive and travelling beyond the rule making power of the State of Maharashtra. This Court accordingly allowed those petitions and have set aside the impugned orders passed by the Tahsildar thereby seizing vehicles of the petitioners and show cause notices. This Court also directed the authority to release the vehicles of the petitioners in that matter.

5. In our view, the facts and the issues of these matters are identical to the facts and issues involved before this Court in the aforesaid two judgments. Learned A.G.P. could not distinguish those two judgments.

6. We accordingly pass the following order :-

(a) Rule is made absolute in terms of prayer clause (B). The vehicles of the petitioners shall be released within a period of one week from today without fail.

(b) Writ petitions are allowed in the aforesaid terms. Rule is made absolute accordingly. No order as to costs.

(c) The parties to act on the authenticated copy of this order.

[M.G.SEWLIKAR, J.]

[R. D. DHANUKA, J.]