

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 919 OF 2022

Israil Khan Irfar Khan,
Aged about 25 years,
Occupation – Business,
R/o Idgaha Road, Near Ullaha Khan
Chowk, Shegaon, Tahsil – Shegaon,
District Buldhana.

.... **PETITIONER**

VERSUS

- 1) State of Maharashtra,
through its Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai – 32.
- 2) The Additional Collector,
Akola, District Akola.
- 3) The Sub-Divisional Officer,
Akola.
- 4) The Tahsildar, Balapur,
Tahsil – Balaur, District – Akola.
- 5) Police Station Officer,
Police Station, Ural, District – Akola.

.... **RESPONDENTS**

Mr. Bhushan Dafle, Counsel for the petitioner,
Mr. S.M. Ukey, Addl.G.P. for the respondents.

CORAM : ROHIT B. DEO, J.

DATED : 14th MARCH, 2022

ORAL JUDGMENT :

Heard. **Rule.** Rule made returnable forthwith. With consent, the

petition is heard finally.

2. The petitioner is assailing the order dated 03-12-2021 rendered by the Tahsildar, Balapur whereby the petitioner is directed to pay royalty and penalty for illegal excavation and transportation of sand of Rs.17,357/- (Rupees Seventeen Thousand Three Hundred Fifty Seven) and is additionally directed to pay Rs.1,00,000/- (Rupees One Lac) as penalty for illegal user of vehicle.

3. In so far as the penalty imposed for illegal user of vehicle, the said must be quashed since the authority who can exercise power under Section 48(8)(2) of the Maharashtra Land Revenue Code, 1966 (Code) is an officer not belong the rank of Deputy Collector. To the extent, for imposing penalty of Rs.1,00,000/- (Rupee One Lac) for illegal user of vehicle, the order impugned is quashed. Issue of penalty and the conditions of release of the vehicle shall be considered by respondent 3-Sub-Divisional Officer, Akola within ten days from the date of appearance of the petitioner. The petitioner shall appear before the Sub-Divisional Officer, Akola on 21-3-2022.

4. In so far as the penalty imposed for illegal excavation and transportation of the sand, I have no reason to interfere in the writ

jurisdiction.

5. The petition is partly allowed in the aforestated terms.

JUDGE

adgokar