

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

Writ Petition No. 545 of 2022

Pramod Yogeshwar Rinayat,
Aged about : 32 years,
Occupation : Business,
R/o. Yekodi, Gondia,
Tah. and District – Gondia.

... Petitioner

... Versus ...

- (1) State of Maharashtra,
through its Secretary, Revenue
and Forest Department,
Mantralaya, Mumbai – 32.
- (2) The Additional Collector, Gondia,
District - Gondia.
- (3) The Sub Divisional Officer,
Gondia, District - Gondia.
- (4) The Tahsildar, Gondia,
Tah. Gondia, District - Gondia.
- (5) The Police Station Officer,
Police Station Gangazari,
Tah. and District - Gondia.

... Respondents

Mr. A. R. Ingole, Advocate for the petitioner
Mr. D. P Thakre, Addl. G. P for the respondents

CORAM : ROHIT B. DEO, J.

DATED : 24-2-2022

ORAL JUDGMENT

Rule. Rule made returnable forthwith. The petition is heard finally with consent of the learned counsel appearing for the parties.

2. The short submission is that vide order dated 27-5-2021, the Tahsildar, Gondia has imposed penalty of Rs. 7,50,000/- (Rupees Seven Lacs Fifty Thousand) for illegal vehicular use in purported exercise of power under Section 48(7) and 48(8) of the Maharashtra Land Revenue Code, 1966 (Code), which is without jurisdiction.

3. It is submitted that in view of the decision of the Division Bench of this Court in Writ Petition No. 7165/2018 (Harihar s/o Mahadev Puri Vs. State of Maharashtra and anr.) dated 15-3-2019, such an order could have been passed only by revenue officer not below the rank of Deputy Collector as is the mandate of Section 48(8)(2) of the Code.

4. While the order of the Tahsildar was subjected to appeal and there is an order of remand by the Sub Divisional Officer, Gondia, it is clear that the authority to decide whether the vehicle ought to be

released, and the conditions for such release, was not the Tahsildar. In this view of the matter, the order impugned dated 27-5-2021 is quashed and the Sub Divisional Officer, Gondia is directed to decide the matter in exercise of power under Section 48(8)(2) of the Code.

5. The petitioner shall appear before the Sub Divisional Officer, Gondia on 2-3-2022 and shall apprise the authority of this order.

6. The authority is requested to take an appropriate decision on release of the vehicle and the conditions subject to which the release can be ordered, within ten days from the appearance of the petitioner.

7. The petition is disposed of in the aforestated terms.

JUDGE

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