

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

WRIT PETITION NO. 593 OF 2022

Javed s/o Jabbar Sheikh,
Aged about 39 years,
Occupation – Business,
R/o Budhwaripeth, Umred,
District – Nagpur.

.... **PETITIONER**

VERSUS

1) State of Maharashtra,
through the Collector, Bhandara,
District – Bhandara.

2) The Tahsildar,
Tahsil Office, Paoni, District Bhandara.

.... **RESPONDENTS**

Mr. T.H. Bewali, 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 09-1-2022 rendered by the Tahsildar, Paoni in purported exercise of power under Section 48(7)

of the Maharashtra Land Revenue Code, 1966 (Code) whereby penalty of Rs.2,00,000/- (Rupees Two Lac) and royalty of Rs.90,500/- (Rupees Ninety Thousand Five Hundred) is levied for the alleged illegal excavation and transportation of sand.

3. The petitioner has not availed the statutory remedy on the premise that the order impugned is rendered in breach of the principles of natural justice.

4. According to the petitioner, the owner of the vehicle who has to ultimately pay the penalty and the royalty is Mr. Javed Jabbar Sheikh. The order impugned recites that the notice is served to Wahid Khan who failed to appear. Mr. T.H. Bewali would submit that Wahid Khan is neither the driver nor the owner of the vehicle in question. This submission appears to be consistent with record.

5. The order impugned is quashed. The Tahsildar, Paoni shall pass fresh order after hearing the petitioner, who shall appear before the said authority on 17-3-2022.

6. The Tahsildar shall pass the final order within ten days from the date of appearance of the petitioner.

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

JUDGE

adgokar