

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

WRIT PETITION NO. 1754 OF 2022

Sumit s/o Shivaji Dande,
Aged about 47 years, Occupation – Business,
R/o Plot No. 74, Geeta Nagar, Malwar
Layout, Nagpur.

.... **PETITIONER**

VERSUS

1) State of Maharashtra,
through the Collector (Revenue),
Nagpur.

2) The Tahsildar,
Tahsil Office, Nagpur (Gramin),
Nagpur.

.... **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 : 4th MAY, 2022

ORAL JUDGMENT :

Heard. **Rule.** Rule made returnable forthwith. With consent, the petition is heard finally.

2. The petitioner is assailing the order dated 02-2-2022 rendered by the Tahsildar, Nagpur (Gramin) imposing penalty and royalty of

Rs.15,200/- (Rupees Fifteen Thousand Two Hundred) for illegal transportation of sand. The seizure and detention of the vehicle is also under challenge. Further challenge is mounted to challan in Form 6 whereby the petitioner was asked to deposit Rs.1,00,000/- (Rupees One Lac) as penalty for illegal user of vehicle.

3. I have perused the affidavit-in-response and the documents annexed in rebuttal to the submission of the petitioner that there was no seizure muchless legal seizure of the vehicle, as such. I am consciously refraining from making any positive observation lest some prejudice is caused to either party.

4. However, what I notice is that there is no order under Section 48(8)(2) of the Maharashtra Land Revenue Code (Code) and all that is issued is challan dated 03-2-2022. This challan will have to be set aside and matter will have to be sent to the Sub-Divisional Officer for appropriate decision under Section 48(8)(2) of the Code.

5. In so far as the penalty and royalty levied for illegal transportation of sand, according to the learned Counsel Mr. T.H. Bewali, the same is paid. In this view of the matter and the peculiar circumstances, which are *prima facie* discernible from the documents,

the truck can be released subject to the petitioner furnishing an undertaking to produce the truck and/or to pay the penalty if such penalty is imposed under Section 48(8)(2) of the Code.

6. In so far as the grievance as regards the order of the Tahsildar under Section 48(7) of the Code, while the petitioner has paid the royalty and penalty, should there be any grievance, he is free to take recourse to statutory remedy in the matter.

7. The petitioner shall appear before the Sub-Divisional Officer on 10-5-2022.

8. The Sub-Divisional Officer shall hear the petitioner and then pass appropriate order under Section 48(8)(2) of the Code, within the next fifteen days.

9. In the interregnum, the vehicle seized shall be released subject to execution of bond and undertaking in terms of what is observed supra.

10. The petitioner is free to file statutory appeal questioning the penalty under Section 48(7) of the Code.

11. The petition is disposed of in the afores-stated terms.

JUDGE

adgokar