

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

Writ Petition No. 2057 of 2022

Shri Marotrao Shyamrao Thote,
Aged about 62 years,
Occ : Transporters, R/o Plot No. 62
Kalamna Road, Near Lata
Mangeshkar Garden,
Nagpur – 4400035.

... Petitioner

... Versus ...

- (1) State of Maharashtra,
Through its Secretary, Revenue
and Forest department,
Mantralaya, Mumbai – 32.
- (2) The Additional Collector, Nagpur
District : Nagpur.
- (3) The Sub Divisional Officer,
Mouda, Tah. Mouda, Distt. Nagpur.
- (4) The Tahsildar, Tahsil Office,
Mouda, Distt. Nagpur.
- (5) Police Station Officer,
Police Station, Mouda,
Tah. Mouda, Distt. Nagpur.

... Respondents

Mr. Raju Kadu, Advocate for the petitioner
Mr. S. M. Ukey, Addl. G. P. for the respondents

CORAM : ROHIT B. DEO, J.
DATED : 26-4-2022

ORAL JUDGMENT

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

2. The petitioner is seeking quashment of the order dated 18-2-2022 passed by the Tahsildar in exercise of power under Section 48(7) of the Maharashtra Land Revenue Code, 1966 (Code).

3. The petitioner has not availed the statutory remedy of appeal.

4. Even otherwise, disputed questions of fact are involved. According to the petitioner, the seizure is illegal. Reliance is placed on the decision of Division Bench of this Court in ***Writ Petition 7165/2018 (Harihar s/o Mahadev Puri Vs. State of Maharashtra and anr.)***. The reliance placed is absolutely misconceived. In paragraph 10, the Division Bench has considered an order whereby the Tahsildar not only penalised the petitioner for illegal transport, the Tahsildar imposed penalty for illegal use of the vehicle, which he could not have done in view of the provisions of Section 48(8)(2) of the Code. In the present case, the Tahsildar has not imposed penalty for illegal use of the vehicle and to consider the said aspect, the Tahsildar has rightly forwarded the papers to the Sub Divisional Officer.

5. I do not see any reason to interfere in writ jurisdiction since the questions can be appropriately addressed by the appellate authority.

6. The petition is dismissed with liberty to the petitioner to prefer statutory appeal.

JUDGE

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