

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 2041 OF 2021

Keshav Krushnarao Bilbile and anr Vs. State of Maharashtra and ors

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. D.R.Khapre, Advocate for the petitioners
Ms. Shamsi Haider, AGP for Respondent Nos.1 to 4

CORAM : AVINASH G. GHAROTE, J.
DATE : 26/07/2022

1] Heard Mr. Khapre, learned counsel for the petitioners and Ms. Haider, learned AGP for Respondents.

2] The petition challenges the order dated 10.9.2018 by which penalty has been imposed upon the petitioners under Section 48(8) of Maharashtra Land Revenue Code for having been found with a vehicle carrying 4 brass of murum beyond the time period mentioned in the permit.

3] It is contended by Mr. Khapre, learned counsel for the petitioners that the permit did not mention a time frame, but only a time of 7.55, considering which the explanation for the delay as the vehicle was found at about 11.10 a.m. that the vehicle had broken down, ought to have been accepted.

4] The petition is opposed by learned AGP by contending that the distance between the point of lifting and point of delivery was hardly 2 kms and therefore the fact that the vehicle in question was found carrying 4 brass of murum at 11.10 a.m. clearly indicated that the same did not relate to the TP but had illegally lifted murum/sand twice.

5] In my considered opinion there is no ground for such a presumption to be drawn, for the reason that all the 4 TPs placed on record merely mention the time of 7.55. Neither a.m. nor p.m. is mentioned there, nor do they mention a time frame, within which the TP is to be utilized, considering which the explanation given by the petitioner that the truck had broken down after the loading during the transportation appears to be a reasonable explanation. It is also to be noted that the system of tracking was not in place at the relevant time and therefore, it was not possible for the driver of the vehicle to have intimated the breaking down of the vehicle to the authority. This being the position, the petition is allowed and the impugned order dated 10.09.2018 is hereby quashed and set aside. The vehicle be released in the custody of the petitioners. No costs.

JUDGE

Rvjalit

Digitally sign by RAJESH
VASANTRAO JALIT
Location:
Signing Date: 26.07.2022 17:43