

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

WRIT PETITION NO. 3293 OF 2022

Mahesh s/o Chintaman Kodape vs. State of Maharashtra and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. A. R. Ingole, Advocate for petitioner.
Ms. T. H. Khan, AGP for respondent Nos.1 to 4.

CORAM : MANISH PITALE J.

DATE : 17/06/2022

This petition has come up for consideration for the first time, but since the issue raised in the present petition is covered in favour of the petitioner as per earlier judgments of this Court, the petition is taken up for final disposal.

2. The learned AGP has appeared for all the respondent authorities.

3. In the present case, the truck belonging to the petitioner was seized under Section 48 of the Maharashtra Land Revenue Code, 1966, on the ground that it was illegally transporting minor mineral, but it is an admitted position that Gitti (metal stone) was being transported in the truck.

4. In a series of judgments, this Court has already held that Gitti is a finished product and not a minor mineral and therefore, respondent authorities would not be within their power to take action under Section 48 of the aforesaid Code for transport of such Gitti.

5. The learned counsel for the petitioner has relied upon recent judgments of this Court, including judgment and order dated 22/03/2022 passed by this Court in **Writ Petition No.400 of 2022 (*Subhash s/o Yadavrao Matte vs. State of Maharashtra and others*)**

6. The learned AGP could not distinguish the facts of the present case from the aforesaid judgment and the position of law laid down therein.

7. In view of the above, this Court is convinced that the present writ petition is deserves to be allowed and the impugned order needs to be quashed and set aside.

8. Accordingly, the writ petition is allowed and the impugned order dated 04/03/2022, passed by the respondent No.4 Tahsildar and the order dated 10/05/2022 passed by the respondent Sub-Divisional Officer are quashed and set aside.

9. The respondents are directed to release forthwith the truck belonging to the petitioner bearing Registration No.MH-35-K-1245.

JUDGE

*Digitally signed by*RAVIKANT
CHANDRAKANT KOLHE
*Signing Date:*20.06.2022
16:30

KOLHE