

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

WRIT PETITION NO. 4446 OF 2022

Sagar s/o Prabhakar Ahirkar

-- Petitioner

Vs.

State of Maharashtra and another

-- Respondents

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

Court's or Judge's orders

Mr. T.H. Bewali, Advocate for Petitioner

Ms. Mrunal Barabde, AGP for Respondent Nos.1 & 2

CORAM : MANISH PITALE, J.

DATE : 6th September, 2022

Heard learned counsel for the petitioner.

2. By this writ petition, the petitioner has challenged order dated 04/05/2022, passed by the Tahsildar, Mohadi, whereby penalty has been imposed for alleged illegal transportation of minor mineral (sand), by exercising power under Section 48 of the Maharashtra Land Revenue Code, 1966.

3. The learned Assistant Government Pleader has raised a preliminary objection with regard to maintainability of petition on the ground of availability of alternative remedy by way of filing an appeal under Section 247 of the Code before the Sub-Divisional Officer.

4. This Court has perused the aforesaid provisions and it is evident that when the petitioner is aggrieved by alleged error committed by the Tahsildar in the impugned order, which concerns the merits of the case, remedy of appeal is certainly available under the provisions of the said Code.

5. It is vehemently argued by the learned counsel appearing for the petitioner that in such matters the Sub-Divisional Officer is not granting relief as a consequence of which the petitioner is constrained to invoke writ jurisdiction of this Court. The aforesaid submission cannot be countenanced for the reason that merely because the petitioner apprehends that he will not get relief before the Sub-Divisional Officer, cannot be a ground to invoke writ jurisdiction, inspite of availability of alternative remedy. The grounds on which the writ petition could be entertained despite availability of alternative remedy i.e. the order being without jurisdiction or principles of natural justice not being followed, are not available in the facts of the present case and hence, this Court is not convinced that writ jurisdiction can be invoked.

6. In view of the above, the writ petition is dismissed with liberty to the petitioner to invoke the alternative remedy of filing appeal before the Sub-Divisional Officer under the provisions of Code. If such an appeal is filed, the Sub-Divisional Officer shall decide the same expeditiously and strictly in accordance with law.

JUDGE