

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

Writ Petition No. 87 of 2022

Vidya w/o Vinod Dugga,
Aged about 32 years, Occupation - Business,
Resident of Police Sankul, building no. 7,
Quarter no. 186, Complex, Gadchiroli,
District - Gadchiroli.

... Petitioner

... Versus ...

- (1) State of Maharashtra,
Through the Secretary,
Revenue and Forest department,
Mantralaya, Mumbai.
- (2) The Tehsildar,
Tehsil Office, Gadchiroli.
- (3) The Sub Divisional Officer,
Sub-Divisional Office, Gadchiroli.
- (4) The Collector,
Collector office, Gadchiroli.
- (5) The Divisional Commissioner
(Revenue), Commissioner Office,
Nagpur.

... Respondents

Mr. T. H. Bewali, Advocate for the petitioner
Ms. T. H. Khan, A. G. P. for the respondents

CORAM : ROHIT B. DEO, J.
DATED : 1-4-2022

ORAL JUDGMENT

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

2. The challenge is to the order dated 4-5-2020 rendered by the Tahsildar, Gadchiroli whereby penalty is imposed in purported exercise of power under Section 48(7) of the Maharashtra Land Revenue Code, 1966 (Code) on the premise that the petitioner engaged in illegal transportation of sand.

3. The facts are brief.

4. By now, there does not appear to be any dispute that the petitioner held transport pass for 19-3-2020 and the vehicle was intercepted while transporting sand on 20-3-2020.

5. The explanation of the petitioner is that the vehicle suffered a breakdown on 19-3-2020, and it was under such unavoidable circumstances, that the sand could be transported only on 20-3-2020 and the vehicle was intercepted.

6. The petitioner pressed in service certain bills dated 19-3-2020 and 20-3-2020 to substantiate his version of breakdown of the vehicle. There is some dispute whether the shop owner or mechanic who issued the bills appeared before the appellate authority to record their statements. While it is common ground that the appellate authority did issue notices to the authors of the bills, according to the learned Assistant Government Pleader, Ms. Khan, the noticees did not

appear, while the learned counsel for the petitioner Mr. Bewali has a contrarian submission.

7. I am not inclined to delve deeper in the factual controversy. In my considered view, it would be proper if the Tahsildar, Gadchiroli hears the petitioner, records the evidence of the authors of the bills whom the petitioner has undertaken now to produce before the Tahsildar, Gadchiroli and then records the appropriate findings.

8. It would be appropriate if the Tahsildar, Gadchiroli decides the matter as early as possible and in any event, within two weeks from the date of appearance of the petitioner.

9. The petitioner shall appear before the Tahsildar, Gadchiroli on 5-4-2022 along with witnesses.

10. The orders impugned are set aside and the matter is remitted in the aforestated terms.

11. The petition is partly allowed.

JUDGE

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Digitally signed by AVINASH
YUVRAJ WASNIK
Signing Date: 04.04.2022 16:27