

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

WRIT PETITION NO. 7935/2022

Shahid S/o. Baba Ali,
Aged about 39 years, Occ. Business,
R/o. Gurunagar, Bhadrawati, Tah-
Bhadrawati, Dist. Chandrapur.

... **PETITIONER**
(Ori. Appellant)

VERSUS

1. State of Maharashtra,
through its Secretary, Revenue
and Forest Department,
Mantralaya, Mumbai-32.
2. The Tahsildar, Chandrapur,
Tah. & Dist. Chandrapur.
3. The Sub Divisional Officer,
Chandrapur, Tah. & and Dist.
Chandrapur.
4. The Additional Collector,
Chandrapur, Tah. & Dist.
Chandrapur.

... **RESPONDENTS**
(Ori. Respondents)

Mr. E. N. Quazi, Advocate for petitioner.
Mr. S. M. Ukey, Addl. Government Pleader for respondent Nos.
1 to 4.

CORAM : VINAY JOSHI, J.
DATE OF JUDGMENT : 12.12.2022.

ORAL JUDGMENT :

RULE. Rule is made returnable forthwith.

2. Heard finally by consent of respective parties.

3. The petitioner's Tipper bearing registration No. MH-34-AB-4242 has been seized by the Tehsildar allegedly carrying minor minerals. Vide order dated 27.05.2021, Tehsildar has imposed penalty for Rs. 2 lakhs for illegal user of vehicle for transporting minor minerals along with penalty for illegal transportation of minor minerals. The petitioner has challenged the said order before the Sub-Divisional Officer and thereafter, the Additional Collector, however both were dismissed. It is petitioner's contention that the Tehsildar has no authority to impose penalty of Rs. 2 lakhs for illegal use of vehicle for transpiration of minor minerals in terms of Section 48(8)(2) of the Maharashtra Land Revenue Code ('MLR Code'). For this purpose, he has relied on the decision of this Court in case of Harihar S/o. Mahadev Puri Vs. State of Maharashtra & anr. (Writ Petition No. 7165/2018, decided on 15.03.2019). The learned Additional Government Pleader has not disputed the said legal position.

4. In view of above, the impugned order is quashed and set aside only to the extent that it imposes penalty for user of the vehicle in question in illegally transporting the minors and minerals and this matter is remanded back to the Additional Collector for a fresh decision in accordance with law with liberty given to the Collector to either decide himself or assign it to any officer not below the rank of Deputy Collector for a fresh decision in accordance with law, in terms of Section 48(8)(2) of the MLR Code.

5. Petition stands disposed of in above terms.

(VINAY JOSHI, J.)

Gohane

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