

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.5011 OF 2023

SAYYED MUSADHIK ATIKSAHAB SAYYED
VERSUS
THE STATE OF MAHARASHTRA THROUGH PRINCIPAL
SECRETARY AND OTHERS

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Advocate for Petitioner : Mr. K.T. Shirrurkar
AGP for Respondents : Mr. P K Lakhotiya

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CORAM : NITIN W. SAMBRE & S. G. CHAPALGAONKAR, JJ.
Dated: April 28, 2023

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PER COURT :-

1. The petitioner claims to be the owner of JCB Machine bearing registration No.MH-29-R-9850 which was seized by the revenue authorities vide panchnama dated 30th July 2020, having noticed that same was used for excavation of sand in illegal manner. Pursuant to the notice dated 31st July, 2020 the respondent Tahsildar and after considering the explanation tendered, penalty of Rs.7,50,000/- was saddled on the petitioner under the provisions of section 48 (1) clause 7 of the Maharashtra Land Revenue Code.

2. Said order was questioned by the petitioner before the respondent/SDO in an appeal, which was dismissed on 11th January, 2020.

3. As such, this petition.

aaa/-

4. We have heard the learned counsel for the petitioner.

5. According to him, he has preferred a representation to the Collector on 24.2.2023 praying therein release of JCB machine. According to him, JCB machine was never used for the alleged illegal cause and the same was parked adjacent to the field of one Raju Narvate, owner of survey no.16 area 96R. As such, according to him, this Court must direct respondents to release the vehicle of the petitioner.

6. Learned AGP would oppose the prayer.

7. Learned counsel for the petitioner, in response to the Court's query submits that, the petitioner is not willing to deposit the amount of fine.

8. In the aforesaid background, if we appreciated the challenge in the petition, we are of the view that the petitioner has a remedy of questioning the order of Appellate Authority i.e. Sub Divisional Officer before the learned Single Judge. Admittedly, the petitioner has not questioned this order, that being so, there is no substance in the petition. Petition as such fails, stands dismissed.

(S. G. CHAPALGAONKAR, J.)

(NITIN W. SAMBRE, J.)

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aaa/-