

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

WRIT PETITION NO. 5806 OF 2023

Sharad Bhagwat Patil

.. Petitioner

Versus

The Tahsildar, Jalgaon and another

.. Respondents

Mr. Narendra D. Sonavane, Advocate for the Petitioner.

Mr. S. B. Pulkundwar, AGP for Respondent Nos. 1 and 2.

CORAM : KISHORE C. SANT, J.

DATED : 11th AUGUST, 2023.

P. C. :-

. In this petition, the vehicle of the petitioner is seized by the Collector on 22.04.2022. The learned Tahsildar thereafter imposed fine of Rs. 45,000/- under Section 48 (7) (8) of the Maharashtra Land Revenue Code. The learned Tahsildar also imposed fine of Rs. 2,00,000/- for use of vehicle, Rs. 4,500/- towards District Mineral Foundation (DMF) and Rs. 8,152/- as rent of the place where the vehicle was standing. The grievance is made that, the learned Tahsildar has no power to impose penalty for the use of vehicle as the said power is only with the learned Additional Collector and the officer above the rank of learned Additional Collector. There is also no power to impose penalty of fine of the charges for DMF as well as rent of the

place. Though the appeal was filed by the petitioner, the same came to be dismissed by the learned S.D.O. by order dated 08.08.2022.

2. Learned advocate for the petitioner submits that, the learned Tahsildar has no authority to impose fine of Rs. 2,00,000/- for use of vehicle as well as DMF charges and rent of the place where the vehicle was standing.

3. Learned A.G.P. opposes the petition stating that, ultimately the order of the learned Tahsildar has suffered adjudication at the hands of the authority i.e. learned S.D.O. and therefore, the same order needs to be maintained.

4. However, this Court finds that, since for the use of vehicle fine can be imposed only by the officer not below the rank of learned Additional Collector and therefore, the said action and collecting the amount towards DMF and amount for use of vehicle needs to be quashed. The order of the learned Tahsildar is thus maintained to the extent of imposing fine of Rs. 45,000/- i.e. imposed for alleged illegal transportation of two brass of sand. The amount towards DMF and for use of vehicle cannot be charged.

5. The orders passed by the learned Tahsildar and learned S.D.O. to that extent are set aside. The writ petition is allowed with a direction

that, the vehicle of the petitioner be released on depositing of Rs. 45,000/- towards fine and Rs. 8,152/- towards rent of the place where the vehicle was standing.

6. The said exercise be done within a period of two (02) weeks from today. The authorities will be at liberty to take action as per law thereafter. The petitioner would also file an undertaking that he would abide by the order if passed pursuant to the fresh action, if any, taken by the authorities. The vehicle shall not be used hereinafter for any illegal purpose in the similar activity without authorization. Till the action is finally disposed off he shall not transfer the vehicle. The said undertaking be filed before the authorities within a period of two (02) weeks from today by filing copy in this Court.

7. With the, the writ petition stands disposed off.

(KISHORE C. SANT, J.)

P.S.B.