

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

909 WRIT PETITION NO.7122 OF 2023

Pradip S/o. Mohan Patil,

...PETITIONER

VERSUS

1. The State of Maharashtra
Through Principal Secretary
Revenue and Forest Ministry,
Mumbai-32
 2. The District Collector, Jalgaon
Tq. & Dist. Jalgaon
 3. Sub-Divisional Officer Erandol,
Tq. & Dist. Jalgaon
 4. The Tahasildar, Dharangaon,
Tq. & Dist. Jalgaon
- ...RESPONDENTS**

Mr. S. B. Deshmukh, Advocate for the petitioner
Mr. S. B. Pulkundwar, AGP for the respondents

CORAM : KISHORE C. SANT, J.

DATE : 12th JULY, 2023

P. C.

1. Heard the parties at length.
2. The petitioner has approached this court against the

order dated 16-05-2023 issued by the learned Tahasildar, Dharangaon imposing the penalty of Rs.1,25,868/- upon the petitioner for transporting sand from State of Gujrat to Maharashtra State without obtaining Zero Royalti Pass. Said order is passed under Sections 48(7) (8) of the M.L.R. Code.

3. Learned advocate for the petitioner submits that he was having a valid permit to transport the sand from State of Gujrat since there was a problem with the website of Maharashtra he could not obtain Zero Royalty Pass because of technical error. The authorities seized the vehicle and has initiated action under M.L.R. Code. Though he has prayed for various reliefs he has confined his prayer only to the extent of release of vehicle i.e. seized by the authorities.

4. Learned AGP vehemently opposed the petition. He submits that this court and the Court at Nagpur bench have held that clause 5 of the circular dated 05-02-2021 is quashed. However, other clause requiring Zero Royalty Pass and it was

necessary for the petitioner to obtain Zero Royalty Pass. His further contention is that the petitioner's vehicle also does not have GPS device which is also made compulsory. He prays for dismissal of the petition with heavy costs. He submits that said activities are going on and those should be turned down and for this reason the petition need not be entertained. The activity of issuing pass of the transportation of sand bring revenue to the State and is the major source of revenue at taluka places. He submits that there are two false statements in petition. In para No. 2 statement is that there was technical error in App viz: Mahakhanij is totally false. He submits that on the same date there are more than 1300 passes are issued. In Nandurbar district 1539 passes have been issued. Such passes are issued only to vehicle having GPS and therefore, statement is false. Another statement, in his submission, which is falsely made is the statement that the petitioner was having valid permit to transport the sand from the State of Gujrat. He submits that when the petitioner was not having pass to transport the sand in the State of Maharashtra no such statement should have been

made.

5. This court finds that statement about error in Mahakhanij App is made by the petitioner in petition, in online pass it is always difficult to find out as to exactly at what point there is technical error. Therefore, it cannot be said to be a false statement at this stage. About the statement of valid permit this court has carefully seen the statement. Relevant part of the sentence reads as 'he is having valid permit to transport the sand from State of Gujrat and as such there is no illegal transport of sand by him'. This court finds that the petitioner was carrying permit of transport of sand issued by the authorities in Gujrat State is not disputed. This court does not find that statement gives any impression that the petitioner was having valid permit to transport the sand in the state of Maharashtra. Be that as it may, it is always open for the authorities to take appropriate action against the petitioner within their powers.

6. Coming to the present case, this court finds that

vehicle of the petitioner is seized since 20-04-2023, it would not be in the interest of justice to keep the vehicle without use. Till the authorities take action, it would be proper to direct the authorities to release the vehicle on depositing cost of proposed fine. Hence, the following order:-

ORDER

- a] Petition stands allowed to the extent of release of vehicle of the petitioner.
- b] Vehicle of the petitioner i.e. MH-19-CY-9711 be released on depositing fine amount of Rs.1,25,868/- with the authorities. After depositing the fine amount, said vehicle be released within two days.
- c] The authorities are free to proceed against the petitioner as per the law without influenced by observations made by this court in this order.

[KISHORE C. SANT, J.]