

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

36 WRIT PETITION NO.6891 OF 2023

**SHIVAJI SUDAM BHOR
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY
AND OTHERS**

Mr. A. B. Kharosekar, Advocate for the petitioner
Mr. D. S. Jape, AGP for the respondents/State

CORAM : KISHORE C. SANT, J.

DATE : 30th JUNE, 2023

P. C.

1. Issue notice to the respondents. Learned AGP waives service of notice for the respondents/State.

2. The present petition is against Notice dated 12-06-2023 issued by the Tahasildar, Sangamner issuing show cause notice. Allegation against the petitioner is that he was carrying crushed stones in his vehicle. Tahasildar, has therefore, issued notice and imposed the penalty of Rs.20,350/-.

3. Learned advocate for the petitioner submits that it is

crushed stone (Khadi) does not come under the definition of Minor Minerals. So he placed reliance on the order passed by this court in writ petition No.8194/2022 in the case of Vishal Laxman Shinde Vs The State of Maharashtra and others and in writ petition No. 3504/2023 in the case of Shekhar Bhanudas Dethe Vs the State of Maharashtra and others in support of his submission.

4. This court finds that though crushed stones does not come under the definition of Minor and Minerals, prima facie case is made out to show that the notice itself is wrongly issued and considering that fine is only Rs.20,350/-, this court finds that petition can be conveniently disposed

5. The learned AGP could not point out from the panchanama that the petitioner was transporting the sand.

6. Looking at the panchanam it is seen that the vehicle in question was transporting only crushed stones called as

(Khadi/Kach), this court finds that it would be appropriate in the interest of justice to direct the authorities to release the vehicle in question on giving undertaking before the Tahasildar, Sangamner by the petitioner that this order will be subject to outcome of the proceeding before the Tahasildar, Sangamner. The petitioner to deposit fine amount within two weeks thereafter.

7. With this, writ petition stands allowed in terms of prayer clause-B with direction to release the vehicle in question bearing No. MH-17-CM-1465 within two weeks subject to undertaking.

8. Learned AGP to communicate this order to the authorities.

[KISHORE C. SANT, J.]