

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

WRIT PETITION NO. 7753 OF 2023

Ramchandra Rajendra Bholane

.. 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 case, the vehicle of the petitioner is seized on 20.04.2023 by the learned Collector. However, the order came to be passed by the learned Tahsildar on 27.04.2023. The order was passed on 27.04.2023 by the learned Tahsildar imposing penalty of fine of Rs. 66,855/- for transporting three brass of sand and Rs. 1800/- for rent. The learned S.D.O. thereafter on 04.05.2023 passed an order imposing fine of Rs. 2,00,000/- for use of vehicle.

2. The main ground in the petition raised is that, in fact, the petitioner was having valid pass and permit to transport the sand. The order passed by the learned S.D.O. is without issuing any notice of hearing since the vehicle is seized by the learned Collector i.e. the

authority superior to the learned S.D.O. It is apprehension that the learned S.D.O. may not pass such order.

3. This Court finds that, such apprehension cannot be entertained as the learned S.D.O. has passed the order under the law. The vehicle was intercepted by the learned Collector and later on action was taken by the learned Tahsildar of seizure. The petitioner has therefore apprehension that the learned S.D.O. may not pass orders. This Court finds that, this submission cannot be accepted as the learned S.D.O. is supposed to pass order by taking in mind the legal position. The petitioner, however, has not filed appeal before the learned Collector and has directly challenged before this Court.

4. This Court finds that, the petition can be disposed off by directing the petitioner to file an appeal before the appropriate authority within a period of fifteen (15) days if he so desires.

5. The vehicle of the petitioner shall be released. The petitioner shall pay the amount as imposed by the learned Tahsildar i.e. Rs. 66,855/- and Rs. 1800/- towards rent within a period of fifteen (15) days from today. He shall also deposit Rs. 1,00,000/- i.e. 50% of the amount as directed by the learned S.D.O. within a period of fifteen (15) days from today.

6. The petitioner shall also file an undertaking that subject to outcome of the appeal, if filed, he shall be bound by the said order and he shall deposit the remaining amount. In case, he does not choose to file an appeal, then he would pay the remaining amount as per the order passed by the learned S.D.O. within a period of four (04) weeks as the order would become final in absence of any appeal within limitation.

7. 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.

8. With this, the writ petition stands disposed off.

(KISHORE C. SANT, J.)

PS.B.