

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

WRIT PETITION NO. 8088 OF 2023

Satish Laxman Mahajan

.. Petitioner

Versus

The State of Maharashtra
Through its Sub Divisional Officer
and another

.. Respondents

Mr. Vijay B. Patil, 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 on 14.06.2023. The learned Tahsildar issued notice on the same day to show cause as to why no penalty of Rs. 45,770/- be imposed upon the petitioner for transporting sand illegally. It is observed that, the petitioner was not carrying even ETP i.e. E-Transport Permit. It was found that the petitioner was carried two brass of sand. To the show cause notice the petitioner immediately filed reply on 16.06.2023.

2. The learned S.D.O. on 16.06.2023 on the basis of notice issued by the learned Tahsildar issued show cause notice as to why the action of imposing fine of Rs. 2,00,000/- for use of vehicle without proper

permit should not be taken and proposed fine of Rs. 2,00,000/- as provided under the Maharashtra Land Revenue Code. For the action to be taken under Section 48 (7) (8) of the Maharashtra Land Revenue Code, the learned S.D.O. claimed amount of Rs. 2,45,770/-.

3. It is the case of the petitioner that, though he has filed reply to the notice issued by the learned Tahsildar, still learned Tahsildar has not passed any final order. Though the learned Tahsildar has not passed final order, the learned S.D.O. has issued another show cause notice. He submits that, in fact, his vehicle was carrying royalty pass and there is no illegality committed by him. As on today, it is seen that, though the vehicle is lying with the authorities, no final order is passed.

4. Though it is sought to be contended by the learned A.G.P that, the petitioner has not filed reply to the show cause notice dated 16.06.2023, no final order could be passed. Learned A.G.P submits that, in this case, the learned Tahsildar has rightly given notice for illegal transportation of sand. So far as use of vehicle is concerned, the notice is issued by the proper authority i.e. learned S.D.O., Jalgaon and no fault can be found with this action. The petitioner can very well approach the learned S.D.O. by filing reply so that the final order can be passed by the learned S.D.O. Without taking recourse to that procedure, he has directly approached this Court. Learned A.G.P

therefore, prays for dismissal of the petition.

5. Learned A.G.P. relies upon the judgment in the case of **State of Maharashtra and others Vs. Greatship (India) Limited** reported in **(2022) 4 S.C.R. 840** to submit that, when there is alternative remedy, the writ petition need not be entertained. Another judgment he relies upon is the judgment passed by this Court in Writ Petition No. 7012/2022 along with other connected matters. This Court in the said judgment by considering various other judgments concluded that, obtaining of ETP for transport of mines and minerals excavated from another State in the State of Maharashtra would continue to operate notwithstanding setting aside paragraph No. 5 of the circular dated 05.02.2021. In the said judgment, the petitions were disposed off by granting liberty to the petitioners to file appeals under Section 247 of the Maharashtra Land Revenue Code and the appeals were directed to be decided on their own merits within a period of four (04) weeks from the date of filing such appeals.

6. This Court finds that, the authorities need not keep vehicle for unreasonable period and certainly can pass the order if no reply is filed within reasonable time. It is seen from the record that, for two (02) months no final order is passed.

7. Considering the above submissions, this Court finds that, this petition can conveniently be disposed off by directing the petitioner to deposit Rs. 45,770/- and Rs. 1,00,000/- towards fine for illegal use of vehicle within a period of fifteen (15) days and he should also file undertaking.

8. The vehicle of the petitioner be released on deposit of Rs. 45,770/- and Rs. 1,00,000/- towards fine for illegal use of vehicle within a period of fifteen (15) days. On deposit of such amount, the vehicle shall be released within two (02) days thereafter.

9. 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 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.

10. If the reply is filed or even if it is not filed, the learned S.D.O. to pass final order within a period of four (04) weeks from today. As per the undertaking the petitioner would require to pay further amount within fifteen (15) days thereafter.

11. With this, the petition stands disposed off. No order as to costs.

(KISHORE C. SANT, J.)

PS.B.