

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

904 WRIT PETITION NO.9249 OF 2023

**BHATU VIRBHAN NERKAR
VERSUS
THE STATE OF MAHARASHTRA
THROUGH PRINCIPAL SECRETARY AND ANOTHER**

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Advocate for Petitioner:

**Mr. B. S. Deshmukh h/f. Mr. Atul Madhav Pawar
AGP for Respondent/State: Mr. S. B. Pulkundwar**

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CORAM : ARUN R. PEDNEKER, J.

DATE : 31st AUGUST, 2023

PER COURT:

1. Heard.

2. The petitioner challenges the order passed by the Tahsildar, Jalgaon imposing penalty of Rs.45,770/- for carrying 2 brass of sand without payment of royalty. In the same proceedings the Sub-Divisional Officer, Jalgaon has passed an order imposing penalty of Rs.4,45,770/-, as only the said authority is entitled to pass an order of wrongful usage of the vehicle. The order is passed on 04.05.2023. There

is no challenge to this particular order in this proceeding.

3. In view of the same, the petitioner is permitted to file an appeal against the orders before the appropriate authority and move an application for release of the vehicle. The appellate authority to consider the application for release of vehicle on such terms and conditions as it deems fit.

4. On the application being filed, the appellate authority to decide the same within a period of one (01) week thereafter.

5. The learned counsel for the petitioner submits that there was an undertaking given by the earlier owner for usage of the vehicle for carrying his sand without payment of royalty. However, the learned counsel submits that, the petitioner is the second purchaser of the vehicle and that he should not be held bound by the undertaking given by the earlier owner.

All these contentions can be raised before the appropriate authority and the authority to decide the same in accordance with law.

6. The writ petition stands disposed of.

[ARUN R. PEDNEKER, J.]

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