

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

WRIT PETITION NO. 9517 OF 2023

Laxman Bhagwan Mahajan

.. Petitioner

Versus

The State of Maharashtra and another

.. Respondents

Mr. Atul M. Pawar, 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. :-

. Learned advocate for the petitioner submits that, the order is passed by the learned Tahsildar on 28.06.2023 imposing penalty of Rs. 45,770/-. However, no further action is communicated to him and still the vehicle is lying with the authorities. He prays for allowing the petition and to set aside the impugned notice.

2. Learned A.G.P. has filed reply specifically stating that, the show cause notice is issued by the learned S.D.O. on 30.06.2023. In spite of notice, there is no reply submitted by the petitioner. The learned S.D.O. therefore has passed final order dated 10.07.2023 imposing penalty. He submits that, thus the petitioner has to challenge the said order by filing proper proceedings.

3. Learned advocate for the petitioner submits that, at no point of time he has received any notice issued by the learned S.D.O. He has also not received the order dated 10.07.2023. The petitioner came to know about the show cause notice and the order only when the reply came to be filed. The petitioner disputes that no such order is passed as the same is not annexed to the reply filed by the Government. The petition is filed on 17.07.2023, till then no order is served.

4. Learned A.G.P also could not point out that, the notice and order is served upon the petitioner.

5. Under these circumstances, this Court finds that, the petition can be disposed off by directing the petitioner to deposit the amount as directed by the learned Tahsildar in its letter dated 28.06.2023.

6. The petitioner shall file an undertaking that, in case, the order is passed by the learned S.D.O., he shall file an appeal before the authority and he will be bound by the judgment of the authority. The authority to ensure that the show cause notice dated 30.06.2023 is served upon the petitioner. It would be for the petitioner to reply the said notice within a period of two (02) weeks thereafter. On receipt of reply, the learned S.D.O. to pass fresh order.

7. In view of this, the so called order which is not annexed to the reply, if it passed, is quashed and set aside. If the action is initiated, the petitioner shall further deposit Rs. 1,00,000/- i.e. 50% amount of the penalty as per the notice dated 30.06.2023 as stated by giving an undertaking referred in above paragraph.

8. The said exercise be done within a period of two (02) weeks from today. The authorities will be at liberty to take action as per law thereafter. 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.

9. With the, the writ petition stands disposed off.

(KISHORE C. SANT, J.)

PS.B.