

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

WRIT PETITION NO. 9280 OF 2023

Jagannath Eknath Chaudhari

.. 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. :-

. In this case, the learned Tahsildar has passed an order dated 20.07.2023 after issuing the notice to the petitioner.

2. Learned advocate for the petitioner submits that, in this case, the action is taken as the vehicle reached at the destination after the expected time. The delay is of about an hour. He submits that, the vehicle was breakdown as there was problem in the gearbox of the vehicle. He further submits that, he will take legal recourse challenging the order passed by the learned Tahsildar as regards imposing of penalty of Rs. 1,78,500/-, subject to outcome of the proceedings. He further submits that, as regards the fine of Rs. 2,00,000/- is concerned, the learned Tahsildar has no authority under the law to impose penalty

for unauthorized use of vehicle under Section 48 (8) of the Maharashtra Land Revenue Code.

3. Learned A.G.P submits that, the action is rightly taken. The very purpose of issuing ETP is to ensure that there is no misuse of permission and the vehicle does not carry the sand other than the place for which license is given to excavate the sand. The delay in transporting itself gives rise to suspicion that the sand is taken from other place and therefore, the action is taken. He submits that, the learned Tahsildar has also forwarded the proposal for taking action to the learned S.D.O. The learned S.D.O. is in the process of taking action against the petitioner.

4. Thus, in view of this, the petition can be disposed off by directing the petitioner to deposit an amount of Rs. 1,78,500/- within a period of two (02) weeks from today with an undertaking. The petitioner is at liberty to prefer an appeal. The deposit of amount of Rs. 1,78,500/- shall be subject to outcome of the proceedings.

5. 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 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.

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

(KISHORE C. SANT, J.)

P.S.B.