

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

27 WRIT PETITION NO.9683 OF 2023

1. Kalyan Babasaheb Kagade **...PETITIONER**
2. Radhakrushna Bhanudas Garje
3. Babasaheb Ravan Bhadane

VERSUS

1. The State of Maharashtra, **...RESPONDENTS**
Through its Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai-32
2. The Collector, Beed,
Office of the Collector, Beed
3. The Tahasildar, Patoda,
Office of the Tahsildar at Patoda

Mr. Sayyed Tauseef Yaseen, Advocate for the petitioners
Mr. S. B. Pulkundwar, AGP for the respondents/State

CORAM : KISHORE C. SANT, J.

DATE : 09th AUGUST, 2023

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1. Issue notice to the respondents. Learned AGP waives service of notice for the respondents/State.

2. The matter is taken up for final disposal with the consent of the parties.

3. Heard.

4. The petitioners are awarded contract of construction of road and for that purpose they are also given the permit to excavate the sand etc. The petitioners started work and for that they excavated minor and minerals for the work of construction of road. Said permission was granted on 10-01-2022. The petitioner also deposited an amount of royalty. Copies of challan are on record dated 04-07-2022, 31-01-2023, 16-06-2023, 13-07-2023 amounting to Rs.20,98,650/-, Rs.18,04,505/- and Rs. 16,11,469/- & Rs.33,37,804/- respectively. However, the vehicle running the Murrum was intercepted on 16-07-2023 and show cause notice is issued by the learned Tahasildar for deposit of penalty under Section 48(7)&(8) of the MLR Code.

5. Learned advocate for the petitioners submits that in

fact when they are granted contract and when the authorities themselves have granted permission to excavate the minor & minerals still the action is sought to be taken and vehicle is detained. He produces the letter dated 27-07-2023 issued by the Executive Engineer under Pradhanmantri Gram Sadak Yojana, State of Maharashtra, Beed. It is stated in the communication that royalty is to be deducted from the bills to be paid to the contractors. The work of construction of the road is hampered because of detention of vehicle. He also prayed for release of the vehicles i.e. Tipper and JCB. So that, construction of the road can be completed within time. He submits that action of the learned Tahasildar, Patoda is only unjustifiable and prayed that action needs to be set aside.

6. Learned AGP submits that there is alternative remedy to approach the higher authority, if final order is passed. As on today the challenge is only to the show cause notice issued to the petitioners. The petitioners can very well approach the learned Tahasildar, Patoda and file their say. He submits that

Tahsildar, Patoda considering the nature of action would consider the say and pass an order.

7. In view of the same, the petitioners to appear before the learned Tahsildar, Patoda and submit their say.

8. The learned Tahasildar, Patoda to take decision within a period of one week thereafter.

9. With this, the petition stands disposed off.

10. Parties to act upon authenticated copy of this order.

[KISHORE C. SANT, J.]

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