

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

WRIT PETITION NO. 9286 OF 2023

Javed Fakir Pathan

.. 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 petition, a challenge is to an order dated 24.07.2023 passed by the learned Tahsildar imposing penalty of Rs. 2,04,000/- for illegal transportation of sand and Rs. 2,00,000/- for illegal use of vehicle under Section 48 (8) of the Maharashtra Land Revenue Code. The notice was given to the petitioner as the vehicle was delayed by four minutes when it reached the destination and for that the action was proposed.

2. Learned advocate for the petitioner submitted that, the vehicle was expected to reach at 10:19 a.m. on 20.07.2023, however, the said vehicle reached at 10:23 a.m. Learned advocate submits that this view is hyper technical, however, still he is ready to challenge the order by

filing an appeal. He prays that, till then the vehicle of the petitioner be released.

3. Learned A.G.P opposes the petition saying that, the time is in fact, calculated by giving some libeage to the parties and still there was delay of four minutes. It is now the question of delay.

4. This Court finds that, such hyper technical approach need not be taken in such matters.

5. Considering the fact that, the learned Tahsildar has imposed fined of Rs. 2,00,000/- for unauthorized use of vehicle, this Court finds that, it is without jurisdiction. So far as imposition of penalty of Rs. 2,00,000/- for illegal transportation of sand and Rs. 4,000/- towards surface rent, this Court finds that, the interest of the justice would be served by directing the petitioner to pay 50% amount i.e. Rs. 1,02,000/- of the penalty imposed by the learned Tahsildar and the vehicle can be released subject to undertaking.

6. The vehicle of the petitioner be released on deposit of 50% amount i.e. Rs. 1,02,000/- of the penalty imposed by the learned Tahsildar subject to undertaking.

7. 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.

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

(KISHORE C. SANT, J.)

PS.B.