

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

WRIT PETITION NO. 9241 OF 2023

Akash Rajendra Patil

.. 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. :-

. The vehicle of the petitioner is seized as he exceeded the time limit. Except that there is no any other fault found with the petitioner.

2. It is the case of the petitioner that, his vehicle was breakdown as one of the tires punctured. He registered the breakdown immediately on the App i.e. Mahakhanij App. After first breakdown the tire of the said vehicle again got punctured. He tried to register the second breakdown with Mahakhanij App, however, as the Mahakhanij App could not accept the second complaint of breakdown, he could not register the same. It is submitted that, in the App there is no provision to register second time breakdown of the vehicle. It is for this reason the vehicle could not travel the distance within specified time. The

learned Tahsildar, however, passed an order dated 24.07.2023 imposing fine of Rs. 2,00,000/- for unauthorized use of vehicle. He further imposed penalty of Rs. 75,000/- on the sand along with other charges. Thus, the order is passed for an amount of Rs. 2,76,500/-. On merits it is contended that, there is no fault of the petitioner and still he has been penalized. On the legal aspect it is submitted that, the learned Tahsildar has no authority to impose fine of Rs. 2,00,000/- for unauthorized use of vehicle as the said authority is only with the learned S.D.O./Additional Collector.

3. This position is not disputed. Therefore, the petition can be conveniently disposed off by directing the authorities to release the vehicle.

4. Learned A.G.P submits that, there is alternative remedy available.

5. The petitioner has annexed the screenshot of the breakdown received by him from Mahakhanij App as below :

“Breakdown is allowed only one times in one eTP (12201501).”

6. Thus, it is clear that, though the vehicle was otherwise complied with all other conditions, it is only because the breakdown could not be registered, the transportation is said to be illegal.

7. For this reason this Court finds that, the vehicle can be released by setting aside the impugned order passed by the learned Tahsildar though the learned A.G.P. submits that, there is alternative remedy available.

8. However, in view of the non controverted position this petition is allowed.

9. 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.

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

(KISHORE C. SANT, J.)

P.S.B.