

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

20 WRIT PETITION NO.10688 OF 2023

SANDIP RADHAKISAN SHELAR
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND OTHERS

...
Advocate for Petitioners : Mr. Kharosekar A. B.
AGP for Respondent Nos.1 to 4 : Mr. K.N. Lokhande
...

CORAM : ARUN R. PEDNEKER, J.
DATE : 28th August, 2023

PER COURT :

1. In the instant case, by the impugned notice dated 18.7.2023, the Tahsildar, Sangamner is seeking payment of royalty and penalty from petitioner of Rs.48,400/- on 'Khadi' which is not a minor mineral.
2. The learned counsel for the petitioner submits that panchanama indicates that the petitioner was transporting 'Khadi' in a vehicle, which did not have 'zero' royalty pass. However, since the State is not entitled to collect the royalty on 'Khadi' which is not a minor mineral, the aforesaid impugned notice issued by the Tahsildar is prima facie bad in law.
3. The learned advocate for the petitioner relies upon the judgment of this Court in the case of **Ramchandra Dadaji Tangle Vs. State of Maharashtra and Anr. (Writ Petition No. 3581 of 2022) (Nagpur Bench)** and also relies upon the judgment of this Court in **Vishal s/o. Laxman Shinde Vs. The State of Maharashtra and Ors. (Writ Petition No. 8194 of 2021), dated 25/08/2022**, wherein it is being held that, 'Gitti' is not minor mineral and as such the petitioner is not liable to the payment of royalty under section 48 of the Maharashtra Land Revenue Code.

4. In view of the same, the recovery in terms of the impugned notice issued by the Tahsildar is stayed till the decision of the show Cause Notice dated 18.07.2023.

5. The learned advocate for the petitioner submits that his vehicle bearing No. MH-17/BY-3077 is attached by Tahsildar and prays for release of the same.

6. It is hereby directed that the vehicle bearing No. MH-17/BY-3077 be released within three days from the date of production of this order before the Tahsildar, subject to the usual undertaking and terms and conditions.

7. The petitioner to submit additional undertaking to the Tahsildar that he will surrender the seized vehicle before the Tahsildar, Sangamner, District Ahmednagar as and when need arises.

8. This order will be subject to outcome of the proceedings before the Tahsildar, Sangamner, District Ahmednagar.

9. The writ petition is disposed of accordingly.

(ARUN R. PEDNEKER, J.)

SSC/-.