

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

WRIT PETITION NO. 10900 OF 2023

Shri. N.K. Gade,
Through its Partner,
Yogesh s/o. Madhukar Gade,
Age – 50 years, Occu. Business,
R/o. Near Jantaraja Ground, Sangamner,
Tal. Sangamner, Dist. Ahmednagar.Petitioner.

Versus

1. The State of Maharashtra
Through it's – The Principal Secretary,
The Revenue and Forest Department,
Mumbai.
2. The Collector,
Collector Office, Ahmednagar,
Tal. & Dist. Ahmednagar,
3. The Sub-Divisional Officer, Sangamner
Sub-Division, Sangamner,
Tal. Sangamner, Dist. Ahmednagar.
4. The Tahsildar & Executive Magistrate,
Tahsil Office, Sangamner,
Tal. Sangamner, Dist. Ahmednagar.Respondents

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Advocate for Petitioner : Mr. K.N. Shermale
AGP for Respondents : Mr. R.P. Gaur
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CORAM : ARUN R. PEDNEKER, J.
DATED : 01/09/2023

JUDGMENT :

1. Rule. Rule made returnable forthwith. By consent, heard the learned counsel for the respective parties.
2. 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.

3. In the instant case, the petitioners tempo bearing No. MH-17/BY-7559 is impounded for carrying 'Khadi' and separate orders are passed by the Tahsildar, Sangamner dated 16.6.2023 and Sub Division Officer dated 20.6.2023 for payment of royalty and for wrongful use of the vehicle from petitioner of Rs. 20,350/- and Rs.1,00,000/-, respectively.

4. Since the vehicle was undisputedly transporting 'Khadi', there is no jurisdiction vested either in the Tahsildar or the Sub Divisional Officer to initiate action against the petitioner.

5. In view of the same, the orders passed by the Tahsildar, Sangamner dated 16.6.2023 and Sub Division Officer dated 20.6.2023 are hereby quashed and set aside. The petitioner's vehicle bearing No. MH-17/BY-7559 be released within two days from the date of producing this order, before the concerned authority.

6. The writ petition is disposed of accordingly.

7. Rule is made absolute in aforesaid terms.

[ARUN R. PEDNEKER J.]

ssc/