

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

WRIT PETITION NO.10910 OF 2023

Sandip S/o. Shriram Kankate,
Age – 43 years, Occu. Business,
R/o. Mehermala, Vidyanagar, 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,
Taluka Sangamner, District Ahmednagar.

....Respondents

...
Advocate for Petitioner : Mr. K.N. Shermale
AGP for Respondents : Mr. K.B. Jadhavar
...

CORAM : ARUN R. PEDNEKER, J.
DATED : 07/09/2023

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 petitioner's dumper bearing No. MH-17/BD-0972 is impounded for carrying 'Khadi' and show cause notice is issued by the Tahsildar, Sangamner on 18.8.2023 separately to impose penalty of Rs. 36,300/-/-.

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

5. In view of the same, the show cause notice issued by the Tahsildar, Sangamner dated 18.8.2023 is quashed and set aside. The petitioner's vehicle bearing No. MH-17/BD-0972 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/