

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

1013 WRIT PETITION NO.11202 OF 2023

SAGAR ARJUN CHAUGHULE

VERSUS

THE STATE OF MAHARASHTRA

THROUGH PRINCIPAL SECRETARY AND OTHERS

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Advocate for Petitioner:

Mr. Deshmukh Bhausaheb Sadasivrao

AGP for Respondent/State: Mr. K. B. Jadhavar

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CORAM : ARUN R. PEDNEKER, J.

DATE : 29th SEPTEMBER, 2023

PER COURT:

1. Heard Mr. Deshmukh Bhausaheb Sadasivrao, learned counsel for the petitioner and Mr. K. B. Jadhavar, learned AGP for the respondents.

2. The vehicle of the petitioner was seized while carrying sand from Gujarat to Bodwad, District – Jalgaon. The petitioner contends that he was holding a valid licence to purchase the sand and proceeded from the sand spot towards the destination. As per the route, on which he was to proceed, the petitioner entered the State of Maharashtra. He had obtained the ETP from respondent no.1 and proceeded with the ETP. The vehicle of the petitioner had broken down on the

route and he has sought first extension for the transit permit. As per the extension granted, the petitioner's vehicle was required to reach at Bodwad, District - Jalgaon at 03:07 pm. The learned counsel for the petitioner submits that there was further breakdown of the vehicle and he had applied for the second ETP and he had received a message that ETP is allowed only one time and the said document is produced at page no.25. The vehicle's location is shown as Betawad. The vehicle was stranded at Betawad on 29.08.2023 at 09:18 am to 11:11 am. The second breakdown was reported at 11:20 am. However, the App refused to give further extension, as there is no provision for registering the second breakdown. The learned for the petitioner has also shown the GPS route of the vehicle. The GPS route is also available with the said authority.

3. In the affidavit filed by the State, the factual assertions made are not disputed that a second breakdown was sought to be registered and it was not registered as there is no facility to

register the second breakdown and that the vehicle was also on the designated route.

4. In an identical fact situation, this court in Writ Petition No.9241 of 2023 by order dated 11.08.2023, held that it is possible that there would be breakdown on multiple occasions and that the vehicle cannot be said to be travelled without transit pass, if, the vehicle is on the designated route and within the possible time frame.

5. From the reply of the State, it is clear that the vehicle has complied with all other conditions. It is only because of the breakdown that the vehicle could not reach it's destination within the time and the second ETP was also requested within the time frame.

6. The learned AGP appearing for the State has contended that there is alternate remedy of appeal and that the petitioner should avail the remedy of appeal. He also submits that, when the vehicle was found, the ETP pass was not valid.

However, I have already held that the second ETP pass was requested and the same was not granted as there is no provision for the same.

7. Relying upon the judgment of this court passed in Writ Petition No.9241 of 2023, I allow this petition with the directions to release the vehicle of the petitioner within three (03) days of the production of this order. The impugned order dated 05.09.2023, passed by Respondent No.3 - the Sub-Divisional Officer, in this case is quashed and set aside and the vehicle bearing registration no. MH-13-CU-9521 be released from the production of the order of this court within three (03) days thereafter. As the basic facts in the matter are not contested, there is no point to remit the matter to the appellate authority.

8. The writ petition stands disposed of.

[ARUN R. PEDNEKER, J.]

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