



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13506 OF 2023

Kishor Hanuman Kale

...Petitioner

Versus

The State of Maharashtra & Ors.

...Respondents

Mr. Sahil Choudhary, h/f. Mr. Nitin Gavare Patil, for Petitioner.
Mr. B. V. Samant, Addl.G.P., with Mr. S.H.Kankal, AGP, for
RespondentS-State.

CORAM: K. R. SHRIRAM &
DR. NEELA GOKHALE, JJ.
DATED: 21st December 2023

PC:-

1. Petitioner's two tippers were confiscated on the ground that the tippers were being used for transportation of minerals. Petitioner states that the tippers have been purchased after availing finance from financial institution and have also been insured.
2. There is an allegation against Petitioner that his tippers were being used to ferry minerals. Thus, Petitioner received a notice from Respondent No.2, i.e., Tehsildar directing Petitioner to pay a fine of Rs.2,50,790/- in order to release the vehicles from the custody of Respondent No.2. Petitioner responded and stated that there is no reason to impose any fine because both the vehicles were working as mineral transporting vehicles under the license issued by the District Collector office, Pune. Admittedly, one of the vehicles was carrying excavated gravel and the other was carrying refined soil. It is

Petitioner's case that refined soil does not fall within the meaning of the term 'mineral'. Hence, his tippers ought not to have been confiscated.

3. Respondent No.2 rejected the contention of Petitioner and by an order of 23rd January 2023 directed him to pay a fine of Rs.2,97,980/- which included the fine amount imposed on vehicle as well as the minerals. Petitioner has impugned this order and preferred RTS Appeal No. 36 of 2023 before Respondent No.3, i.e., Sub-Divisional Officer. According to Petitioner, appeal is still pending.

4. There are other allegations made in the Petition that certain parts of the two vehicles have been missing after they were seized by Respondent No.2. Mr. Choudhari, submitted that Respondent No.3 should be directed to dispose the Appeal expeditiously.

5. There is no case made out in the Petition as to why Petitioner should be permitted to jump the queue. In the Petition, there is an allegation made that Respondents No.2 and 3 are unnecessarily delaying the Appeal. Petitioner states that he made two applications to schedule hearings on 29th July 2023 and 17th August 2023, but his requests have not been considered.

6. As regards prayers (a) to (e) sought in the Petition, the same can be raised in the Appeal filed by Petitioner. Mr. Choudhari states that at least the hearing of the Appeal may be expedited.

7. As mentioned above, we see no reason why Petitioner's case should be treated as a special case to direct Respondent No.3 to expeditiously hear the same. However, so as to avoid deterioration of the tippers, we direct the Respondent No.2 to release the two tippers subject to Petitioner depositing 25% of the amount of fine as directed in the impugned order dated 23rd January 2023, with the Tehsildar. The Tehsildar will keep the amount deposited in Fixed Deposit with a Nationalized Bank till the disposal of the Appeal by Respondent No.3. If Petitioner deposits the amount of fine with Respondent No.2, without prejudice to Petitioner's rights and contentions, then in that case, the Appeal be heard and disposed within four weeks of the proof of deposit being filed.

8. Petition disposed. No order as to costs.

(DR. NEELA GOKHALE, J.)

(K. R. SHRIRAM, J.)