

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No.778/2023

Pradip V State of Maharashtra and others

Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.

Court's or Judge's Orders

Ms. Lakhani, Adv for petitioner.

Mr. N.R. Patil, AGP for resp. Nos.1 and 2.

CORAM : AVINASH G GHAROTE, J.

DATE : 19-04-2023

Heard learned Counsel for the petitioner and
 the learned AGP for the respondents.

2. The petition challenges the order dated 27-06-22 (Pg 31) passed by the SDO imposing penalty upon the JCB vehicle for illegal excavation of sand. It is contended that the seizure memo does not indicate any co-relation between the JCB vehicle and the Tipper into which it is alleged that the excavated sand being stored.

3. Learned AGP relies upon the statement of one Nitin Ganveer to substantiate the impugned order.

4. The seizure memo of the JCB vehicle at page 23 and that of the Tipper dated 01-05-22 (pg 47) also do not indicate that the JCB vehicle was being used

for the purpose of excavating the sand and filling it in the Tipper, as there is no mention of these vehicles in the respective panchanamas. That apart the statement of Nitin Ganveer (pg 52) clearly indicates that the last two lines which related to the JCB vehicle have been inserted therein subsequently as a result of which it destroys the credibility of this statement.

5. In view of this, the impugned order cannot be sustained, the same is quashed and set aside. The petition is allowed in above terms.

6. The vehicle be returned to the petitioner.

JUDGE