

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

WRIT PETITION NO.1354/2023

Raju Kashiram Kurzekar

...Versus...

State of Maharashtra, Through its Secretary, Revenue and Forest Department,
Mantralaya, Mumbai – 32 and others

with

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

Court's or Judge's orders

Shri Raju Kadu, Advocate for petitioner in both petitions
Shri N.R. Patil, AGP for respondents/State in both petitions

CORAM : AVINASH G. GHAROTE, J.

DATE : 02/03/2023

1. In Writ Petition No.1354/2023, the impugned order does two things (i) imposes the penalty under Section 48 (7) of the Maharashtra Land Revenue Code (for short “the MLR Code” hereinafter) for illegal transportation of sand to the tune of Rs.40,500/- and (ii) imposes penalty upon the vehicle bearing Truck No.MH-36-AA-0811 of Rs.2,00,000/- under Section 48 (8) of the MLR Code.

2. In Writ Petition No.1356/2023, the impugned order does two things (i) imposes the penalty under Section 48 (7) of the MLR Code for illegal transportation of sand to the tune of Rs.18,100/- and (ii) imposes penalty upon the vehicle bearing Tractor No.MH-36-Z-4398 and Trolley Chassis No.WSTA79628122717 of Rs.1,00,000/- under Section 48 (8) of the MLR Code.

3. Shri Kadu, learned counsel for the petitioner, upon instructions, states that the vehicles have not been involved in any other offence of the similar nature, except the present one, prior in point of time to the present incident.

4. Since the penalty on the vehicles has been imposed by the Tahsildar, the second parts of the orders, which impose penalty upon the vehicles, cannot be sustained and are quashed and set aside.

5. Insofar as the first parts of above impugned orders are concerned, Shri Kadu, learned counsel for the petitioner submits that the petitioner is willing to pay the penalty of Rs.40,500/- and Rs.18,100/- respectively by tomorrow, considering which, the learned Sub Divisional Officer (SDO) shall initiate proceedings for imposition of penalty forthwith. The petitioner shall appear before the learned Sub Divisional Officer on 03/03/2023. The SDO shall decide the proceedings within a period of four days therefrom. In case any penalty is imposed by the SDO and the same is paid, the vehicles shall be

released in custody of the petitioner.

6. It is also made clear that in case the said vehicles are found involved in similar offence again, the Authority will be justified in confiscation of the same. The writ petitions are accordingly disposed of in the above terms. No order as to costs.

(AVINASH G. GHAROTE, J.)

Wadkar