

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

WRIT PETITION NO.1358/2023

Shri Ganraj Natu Moharkar

...Versus...

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

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
Mrs. M.A. Barabde, AGP for respondents/State

CORAM : AVINASH G. GHAROTE, J.

DATE : 02/03/2023

1. 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.20,600/- and (ii) imposes penalty upon the vehicle bearing Tractor/Trolley No.MH-36-AG-4669 of Rs.1,00,000/- under Section 48 (8) of the MLR Code.

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

3. Since the penalty on the vehicle has been imposed by the Tahsildar, the second part of the order, which imposes penalty upon the vehicle, cannot be sustained and is quashed and set aside.

4. Insofar as the first part of impugned order dated 03/2/2023 is concerned, Shri Kadu, learned counsel for the petitioner submits that the petitioner is willing to pay the penalty of Rs.20,600/- by tomorrow. In case the same is done, the vehicle be released in the custody of the petitioner, upon production of the Challan, evidencing the penalty upon the vehicle, temporarily, in case it is not required in any other matter, upon execution of a bond, as required by Rule 9 of the Maharashtra Land Revenue (Extraction and Removal of Minor Minerals) Rules, 1968.

5. It is, however, made clear that it would be permissible for the learned Sub Divisional Officer (SDO) to initiate appropriate action under Section 48 (8) of the MLR Code for imposition of penalty upon the vehicle and in case any penalty is imposed upon the vehicle by the learned SDO, the vehicle shall immediately be placed in possession and custody of the SDO, unless the fine imposed upon the vehicle is paid.

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