



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

WRIT PETITION NO. 4330 OF 2023

Waez Ali S/o Shahzad Ali,
Aged about 24 years,
Occupation :Business R/o, 26, Hingna
Road, Behind Shantiniketan School,
Rajiv Nagar, Wanadongri, Nagpur

...Petitioner

// VERSUS //

1. State of Maharashtra, through the
Secretary, Revenue and Forest
Department, Mantralaya, Mumbai
2. The Tehsildar,
Tehsil Office, Yavatmal
3. The Sub-Divisional Officer,
Sub-Division Office, Yavatmal
4. The Collector (Revenue),
Collector Office, Yavatmal

... Respondents

Shri T.H.Bewali, Advocate for the petitioner.
Shri N.R.Patil, AGP for the respondents/State.

CORAM : ANIL S. KILOR, J.
DATED : 20th SEPTEMBER, 2023.

ORAL JUDGMENT :

Rule. Rule made returnable forthwith. Heard finally by
consent of the parties.

2. The truck of the petitioner was intercepted and it was seized on the ground of illegal transportation of 12 brass sand. Accordingly, the notice was issued to the conductor of the vehicle and thereupon the Tehsildar, Yavatmal vide order dated 1st March, 2023 imposed penalty of Rs.2,36,377/- under Section 48(7) of Maharashtra Land Revenue Code, 1966 (in short hereinafter referred as “MLR Code, 1966”) for illegal excavation and transportation of sand. Whereas, the Sub-Divisional Officer, Yavatmal vide order dated 6th March, 2023 imposed penalty of Rs.2,00,000/- on the vehicle owned by the petitioner. The appeal under Section 247 of the MLR Code, 1966, came to be rejected by the Additional Collector, Yavatmal. Hence, this writ petition.

3. The only ground raised by the petitioner is that he is the owner of the vehicle and at any point of time neither the Tehsildar nor the Sub-Divisional Officer has issued any notice to the petitioner before imposing penalty. It is pointed out that notice was served upon the conductor of the vehicle. Even from the impugned orders, it is evident that the petitioner was not served with the notice or he was not heard before passing the orders by the Tehsildar and Sub-Divisional Officer, which were upheld by the Additional Collector, Yavatmal.

4. Thus, in the above referred backdrop since the petitioner is the owner of the vehicle, the Tehsildar and the Sub-Divisional Officer ought to have issued the notice to the petitioner and only after hearing the petitioner the orders should have been passed by both the authorities below. The Additional Collector, Yavatmal has not considered the above

referred facts that there is non-compliance of principle of natural justice and dismissed the appeal.

5. In the above referred backdrop, I have reached to the conclusion that the impugned orders in the present writ petition are illegal, bad in law and liable to be quashed and set aside. Accordingly, I pass the following order.

- i. The writ petition is allowed;
- ii. The order dated 1st March, 2023 passed by the Tehsildar, Yavatmal, the order dated 6th March, 2023 passed by the Sub-Divisional Officer, Yavatmal and the order dated 18th May, 2023 passed by the Additional Collector, Yavatmal are hereby quashed and set aside;
- iii. The matter is remanded back to the Tehsildar, Yavatmal to decide the same afresh after hearing the petitioner.
- iv. The petitioner is directed to appear before the Tehsildar, Yavatmal on **27th September, 2023** at 12 noon. The Tehsildar, Yavatmal shall take a decision within 15 days from the date of appearance of the petitioner.

[ANIL S. KILOR, J.]