

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

WRIT PETITION NO. 7444 OF 2022

Shri Manohar Maroti Ghawale
Aged about 44 years, Occ. Business
R/o Gandhi Ward, Bramhi, Konda
Kosra, Dist. Bhandara

...Petitioner

// VERSUS //

1. State of Maharashtra, through its Secretary, Revenue and Forest Department, Mantralaya, Mumbai-32
2. The Additional Collector, Bhandara, Dist. Bhandara
3. The Sub-Divisional Officer, Bhandara, Tah. Bhandara, Dist. Bhandara
4. The Tahsildar, Tehsil Office, Paoni, Tah. Paoni, Dist. Bhandara

... Respondents

Shri Raju L. Kadu, Advocate for the petitioner.
Shri Deepak Thakare, Addl. G.P. for the respondent nos. 1 to 4.

CORAM : ANIL S. KILOR, J.

DATED : 13th MARCH, 2023.

ORAL JUDGMENT :

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

2. In this writ petition, the challenge is raised to the order dated 25th August, 2022 passed by the Sub-Divisional Officer, Bhandara in R.M.No.195/MNL-37/2022-23 imposing penalty of Rs.7,50,000/- on the petitioner for carrying out illegal excavation of minor mineral.

3. In this petition, the only ground raised by the petitioner is that there were two reports available on the record before the Sub-Divisional Officer at the time of passing of impugned order. The reports of Talathi, Taluka Paoni and Tehsildar, Paoni, Dist. Bhandara. Both the reports support the case of the petitioner that the vehicle was not used in illegal excavation of minor minerals. It is submitted that without recording any finding, the Sub-Divisional Officer has observed the said reports are not found satisfactory. He submits that the Sub-Divisional Officer has committed error in not considering the said reports in right perspective.

4. On the other hand, Learned Additional Government Pleader supports the case of the Sub-Divisional Officer and submits that after considering the material available on record, the Sub-Divisional Officer has rightly imposed the penalty of Rs.7,50,000/-.

5. In the light of rival contentions of the parties, I have gone through the record and impugned order.

6. There is no dispute that there were two reports available on record before the Sub Divisional Officer. One report was prepared by Talathi and another was prepared by Tehsildar. While passing the impugned order, the Sub Divisional Officer has not relied upon both these reports which apparently support the case of the petitioner that the petitioner has not illegally excavated any minor minerals. However, while discarding the said reports the only observations made by the Sub-

Divisional Officer is that the said reports were not found satisfactory. However, no findings were recorded as to why and how the said reports are not found satisfactory or what other material was available before the Sub- Divisional Officer, other than the reports of Talathi and Tehsildar, to arrive at a conclusion that the petitioner has committed any illegality. In absence of any such reasons recorded by the Sub Divisional Officer, I am of the opinion that the impugned order needs to be quashed and set aside and the matter needs to be remanded back to the Sub Divisional Officer to decide the same afresh. Accordingly, I pass the following order.

- i. Writ Petition is partly allowed.
- ii. The order dated 25th August, 2022 passed by the Sub-Divisional Officer, Bhandara in R.M.No.195/MNL-37/2022-23 is hereby quashed and set aside;
- iii. The matter is remanded back to the Sub Divisional Officer, Bhandara to decide the same afresh after hearing the petitioner.
- iv. The petitioner shall appear before the Sub Divisional Officer on **15th March, 2023** at 12 noon and the proceeding shall be decided within 15 days thereafter.

[ANIL S. KILOR, J.]

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