



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.1884 OF 2024

Pritamsing Ravindrasing Girase,
Age : 33 Years, Occu. : Business,
R/o Patel Colony, Dondaicha,
Tq. Shindkheda, Dist. Nandurbar. ... **Petitioner.**

Versus

1. The State of Maharashtra,
Through its Secretary,
Revenue Department,
Mantralaya, Mumbai.
2. The Additional District Collector,
Nandurbar Division, District Nandurbar.
3. The Assistant District Collector,
Nandurbar Division, District Nandurbar.
4. The Tahsildar,
Tahsil Office, Nandurbar. ... **Respondents.**

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Advocate for Petitioner : Mr. D. S. Bagul h/f Mr. Salunke P. S.
AGP for Respondents-State : Mr. A. S. Shinde.
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CORAM : S. G. MEHARE, J.
DATE : 15.02.2024

ORAL JUDGMENT :-

1. Rule. Rule made returnable forthwith and heard finally
by consent of the parties.
2. Issue notice to the respondents.

3. Learned AGP waives service of notice for all respondents.

4. A small question is, "Could the Revenue Authorities take immediate action for the auction of the vehicle seized after exercising the powers under Section 48(8) of the Maharashtra Land Revenue Code?".

5. In the case at hand, the Assistant Collector passed the order on 18.01.2024 under Section 48(8) of the Maharashtra Land Revenue Code and directed the petitioner to deposit the amount of seized vehicle determined for illegal transport of the minor minerals. Thereafter, immediately on 31.01.2024, the Tahsildar published the auction notice of the vehicle of the petitioner.

6. The learned counsel for the petitioner contends that the Government of Maharashtra had issued a circular on 18.01.2022 regulating the proceeding by the Revenue Officers. By the said circular, the directions have been issued to the Revenue Authorities not to execute any order until the appeal period is over.

7. Learned counsel for the petitioner submits that in pursuance to the order of the Tahsildar, dated 31.01.2024, the auction is scheduled tomorrow i.e. on 16.02.2024.

8. The petitioner has preferred the appeal in time and sought the stay to the impugned order. However, the learned Additional Collector rejected the application for a stay to the impugned order by observing that the relevant papers required for the stay had not been placed on record. Therefore, it could not be said that there is a violation of the Government Circular dated 18.01.2022.

9. Perused the papers. *Prima facie*, it appears that the action for auction of the petitioner's truck was initiated before the appeal period was over. The petitioner immediately rushed to the Appellate Authority and preferred the appeal. However, within a short time, the auction notice was published. The auction has been scheduled for 16.02.2024.

10. Considering the facts of the case and the Circular of the Government dated 18.01.2022, the Court is of the view that the petitioner has a good case for stay. The Additional Collector has taken the incorrect view for refusing the interim stay. Hence, the impugned order dated 12.02.2024 deserves to be quashed and set aside.

11. Learned AGP would submit that the direction to expedite the appeal may be issued. This Court has no material that the appeal is going to be delayed deliberately. In the absence of

any such material, it would be inappropriate to pass the order expediting the appeal. It is a case of the Government. Therefore, the Additional Collector may make an appropriate decision as he thinks fit. It is his discretion when and how to dispose of the appeal.

12. For the above reasons, following order is passed :

ORDER

- (i) Writ Petition is allowed.
- (ii) The order of the Additional Collector, dated 12.02.2024, passed in RTS Appeal No.9 of 2024, is quashed and set aside.
- (iii) Application for interim stay of the applicant is allowed.
- (iv) The impugned order dated 18.01.2024 is stayed till the conclusion of the appeal before the Additional Collector, Nandurbar.
- (v) The rule is made absolute in the above terms.
- (vi) No order as to costs.

(S. G. MEHARE, J.)

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vmk/-