



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

WRIT PETITION NO. 6732 OF 2024

SAYYED IMRAN SAYYED ISAK

VERSUS

**THE STATE OF MAHARASHTRA THROUGH THE SUB
DIVISIONAL OFFICER AND ANOTHER**

...

Mr. Abhijit S. More, Advocate for the Petitioner.

Mr. V. M. Jaware, AGP for Respondents-State.

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CORAM : S. G. CHAPALGAONKAR, J.

DATED : 03rd JULY, 2024.

P.C.:-

1. The petitioner impugns the order dated 28.03.2024 passed by the Sub Divisional Officer, Kannad, Chhatrapati Sambhajnagar-respondent no.1 under Section 48(7) and (8) of the Maharashtra Land Revenue Code (for short 'MLR Code'), thereby imposing penalty of Rs.5,75,000/- against the petitioner for unauthorized use of vehicle for transportation of minor minerals.

2. The learned A.G.P. submits that the petitioner has alternate remedy of Appeal under Section 247 of the MLR Code before the Collector against the impugned order. Therefore, writ petition may not be entertained.

3. Mr. More, learned Advocate appearing for the petitioner submits that in fact the petitioner has replied to Show Cause Notice and pointed out that because of mechanical failure, his vehicle could not complete the journey under the Royalty Pass, which was valid for 1 day and 6 hours. In support of his contention he has filed on record the receipt issued by the Mechanic regarding

repairs of the vehicle. The impugned order do not make reference to any such defence being raised.

4. Considering the submissions advanced, it would be appropriate to relegate the petitioner to avail the alternate remedy of Appeal under Section 247 of the MLR Code. However, the petitioner's vehicle can be directed to be released subject to condition that he deposits 50% of the amount of the penalty within a period of two weeks. The release of the vehicle shall be subject to the condition that the petitioner prefers an Appeal before the Additional Collector and deposits the amount within the stipulated period. The petitioner shall also file undertaking that he would abide by further orders passed in Appeal and re-deposit his vehicle, in case he suffers adverse order.

5. Writ Petition is disposed of in aforesaid terms.

(S. G. CHAPALGAONKAR)
JUDGE