



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 8384 OF 2024**

SURAJ ANTIDAS KALE THROUGH GPA SHIVKUMAR
CHABILDAS INGALE

VERSUS

THE STATE OF MAHARASHTRA THROUGH DISTRICT
COLLECTOR AND OTHERS

Mr. Madhukar M. Parghane, Advocate for the Petitioner.

Mr. S. B. Jadhav, AGP for Respondents-State.

CORAM : S. G. CHAPALGAONKAR, J.

DATED : 07th AUGUST, 2024.

P.C.:-

1. Heard Mr. Parghane, learned Advocate appearing for the petitioner.
2. The petitioner impugns order dated 18.07.2024 passed by Tahsildar, District Jalgaon in File No. गौणख / कावि / ५२ / २०२४.
3. He submits that under panchanama his vehicle bearing Registration No.MH-27-X-2245 has been seized by Circle Officer. Consequently, the petitioner was served with notice dated 17.05.2024 and final order dated 18.07.2024 is passed imposing penalty of Rs.48,460/- towards transportation of minor mineral/sand. Further vehicle is kept in possession subject to the order to be passed by the Sub Divisional Officer, who can impose penalty upto Rs.2,00,000/- for unauthorized use of vehicle for carriage of minor minerals. Mr. Parghane submits that Tahsildar sans powers to seize vehicle in terms of Section 48(7) and (8) of the Maharashtra Land Revenue Code. The seizure of vehicle is without jurisdiction. The vehicle is kept in possession illegally from 17.05.2024.
4. Section 48 of the MLR Code empowers Tahsildar to impose penalty as regards unauthorized extraction of minor minerals in

terms of Section 48(7) and (8). However, he do not possesses power to seize or confiscate vehicle or impose penalty as regards to the unauthorized use of vehicle for transportation of minor minerals. Such powers are vested with Sub Divisional Officer. Mr. Parghane relies upon the order passed by this Court in Writ Petition No.9114/2023 dated 01.08.2023 to contend that in such situation direction can be given to conditional release of vehicle, as petitioner is ready to deposit 50% amount of the proposed penalty.

5. Considering the submissions advanced, writ petition can be disposed of as under:

- a. Writ Petition is partly allowed.
- b. The vehicle bearing Registration No.MH-27-X-2245 be released subject to condition that the petitioner deposits amount of Rs.1,00,000/- i.e. 50% of the proposed penalty subject to final decision to be taken by Sub Divisional Officer.
- c. The petitioner shall also file an undertaking that in case Sub Divisional Officer decides against him, he shall deposit balance of penalty amount or surrender his vehicle.
- d. The petitioner shall be at liberty to challenge the order of Tahsildar dated 18.07.2024 in Appeal before the Sub Divisional Officer in respect of imposition of penalty towards illegal excavation/transportation of the minor minerals.
- e. Writ Petition stands disposed of in aforesaid terms

(S. G. CHAPALGAONKAR)
JUDGE