



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

915 WRIT PETITION NO. 10040 OF 2022

1. Sagar Annasaheb Badhe,
age 34 years, Occ. Agril,
R/o Gondegaon, Tq. Shrirampur,
District Ahmednagar.
 2. Annasaheb Ram Badhe,
age 71 years, Occ. Agri,
R/o Gondegaon, Tq. Shrirampur,
District Ahmednagar.
- Petitioners

Versus

1. The State of Maharashtra,
Through the Collector, Ahmednagar.
 2. The Tahsildar Shrirampur,
Tq. Shrirampur, Dist. Ahmednagar.
 3. The Circle Officer Gondegaon,
Tq. Shrirampur, Dist. Ahmednagar.
 4. The Talathi, Gondegaon,
Tq. Shrirampur, Dist. Ahmednagar.
- Respondents.

...

Advocate for the Petitioner : Mr. M.A. Dond
AGP for Respondents : Mr. K.B. Jadhavar

CORAM : S. G. CHAPALGAONKAR, J.

Dated : June 14, 2024

JUDGMENT :-

1. Rule. Rule made returnable forthwith. Petition is heard finally with the consent of the parties at the stage of admission.

2. Petitioners impugn the order dated 24.10.2020 passed by the Tahsildar/respondent no.2 thereby imposing the penalty under section 48 (7) of the Maharashtra Land Revenue Code, 1966 (for short 'MLRC').

3. Mr. Dond, learned advocate appearing for the petitioners submits that he would restrict his challenge to the part of the penalty towards use of the vehicle for transportation of the sand, although petitioner is ready to deposit the fine amount quantified towards Minor Minerals. He would submit that Tahsildar does not possess powers to impose the penalty for illegal vehicle use for transportation of Minor Minerals. To buttress his submissions, he relies upon a judgment in case of **Alhasan Syaid Arif Asi Sayaid Vs. State of Maharashtra and others dated 21.3.2022 in writ petition No.401 of 2022 (Nagpur Bench)**. This Court relying upon the observations of the Division Bench in case of *Harihar Mahadev Puri Vs. State of Maharashtra and another in Writ Petition No.7165 of 2018 decided on 15.3.2019* observed that it is not permissible for the Tahsiildar to impose penalty as regards to the vehicle used for illegal transportation of minor and minerals under section 48 (7) and (8) of the MLRC. Such powers can be exercised by the Collector. However, it is held that the Tahsildar is competent to impose penalty to the extent of 5 times of the value of minor and minerals.

4. Considering the aforesaid conclusion drawn by this Court, the impugned order to the extent of imposing penalty of Rs.1.00 Lakh towards use of the vehicle is without

jurisdiction. Consequently, writ petition is allowed to that extent. However, the petitioners shall be liable to deposit the amount of penalty five (5) times of valuation of the Minor Minerals. Writ petition is accordingly disposed off. Rule is made absolute in above terms. No order as to costs.

(S. G. CHAPALGAONKAR)
JUDGE

...

aaa-