



**THIS ORDER IS CORRECTED AND UPLOADED IN VIEW OF
ORDER DATED 20.09.2024.**

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

921 WRIT PETITION NO. 9434 OF 2024

**DHANAJI VITTHAL JADHAV
VERSUS
THE STATE OF MAHARASHTRA THROUGH COLLECTOR
NANDURBAR AND ORS.**

...
Advocate for the Petitioner : Mr. More Abhijit S.
AGP for Respondents/State : Mr. V.S. Badakh
...

CORAM : KISHORE C. SANT, J.

DATE : 3rd SEPTEMBER, 2024.

PER COURT :

1. An appeal of the appellants is pending before the learned Additional Collector, Nandurbar raising a challenge to the order passed by the learned SDO dated 24.07.2024 imposing penalty on the petitioner for carrying sand illegally. It is the case of the petitioner that an action is taken as the weight of the sand in the vehicle found to be in excess. It is the case of the petitioner that due to heavy rain some water is accumulated

in the truck and because of that the weight of the sand was increased by 360 k.g. only. The petitioner therefore, filed an application to recalibrate. Said application came to be rejected by the learned Additional Collector by order dated 23.08.2024.

2. Learned Advocate for the petitioner relies on the orders passed by this Court in Writ Petition No. 3027 of 2024 dated 19.03.2024 wherein this Court has directed the authorities to allow application of those petitioners for recalibration. He also placed reliance on two other orders passed by Single Judge of this Court. He further points out that only because of the rain the sand got wet is not correct and it is the duty of the vehicle owner to cover the sand by Tadpatri. In this case, the petitioner had not covered the vehicle and now takes such defence. The authorities therefore have rightly rejected the application. However, due to fact that on earlier occasions this Court has entertained such Writ Petitions and has directed the authorities to allow the petitioner therein to go for recalibration. Therefore, this Court is inclined to allow the petition. Considering the above factors following order :

ORDER

- 1) The Writ Petition stands partly allowed.
2. The order dated 23.08.2024 passed by the learned Additional Collector in RTS Appeal No. 44 of 2024 is quashed and set aside.
3. Interim application stands registered and is allowed.
4. The authorities to allow the petitioner to recalibrate the vehicle within two weeks from today and thereafter to decide the appeal.
5. With the Writ Petition stands disposed off.

**(KISHORE C. SANT)
JUDGE**

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