



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11390 OF 2023

Dnyaneshwar Nivrutti Kesnor

VERSUS

The Tahsildar Tahsil Office Nandurbar

- Mr. N. D. Sonavane, Advocate for the Petitioner
- Mr. V. S. Badakh, AGP for the Respondent/State

CORAM : KISHORE C. SANT, J

DATE : SEPTEMBER 09, 2024

PER COURT :

1. Heard the parties.

2. Present Petition is in a narrow compass. Grievance of the Petitioner is that the vehicle of the Petitioner was carrying the sand that was excavated in the State of Gujarat. The vehicle was only transporting the sand in the State of Maharashtra. He submits that this Court at Nagpur Bench has already taken a view in Writ Petition No. 2078/2021 holding that the Authorities in the State of Maharashtra have no power to impose royalty on the sand excavated in another State. He further submits that so far as vehicle is concerned, the penalty can be imposed only

by the Collector and relies upon the judgment of the Division Bench of this Court at Nagpur Bench in Writ Petition No. 7165/2018 (Harihar Mahadev Puri vs. State of Maharashtra and Anr). In the said judgment, this Court had directed the authorities to approach the Deputy Collector by holding that the Tahsildar has no power to impose fine on the vehicle under Section 48(8) (2) of the Maharashtra Land Revenue Code. The order passed by the Tahsildar was quashed and set aside by directing the parties to approach the Collector. On this legal position, he submits that in the present case also the vehicle was carrying the sand from the State of Gujarat. The Tehsildar has imposed fine on the vehicle. To that extent, he submits that the matter needs to be remitted back to the Collector for proper order by quashing the order dated 04.11.2022.

3. Learned AGP submits that the Tehsildar has to exercise its jurisdiction and in any case the Petitioner has remedy to approach SDO. He thus prays for rejection of the Petition.

4. Considering the arguments and the material on record, this Court finds that the order dated 04.11.2022 needs to be quashed and set aside to the extent of fine of Rs. 2,00,000/- for release of vehicle. Remaining part of the order can be challenged by way of Appeal before the SDO. Petitioner is entitled to challenge the order dated 04.11.2022 to the extent of Rs. 1,33,370/- i.e., imposing penalty by the Tehsildar for the royalty towards sand. So far as fine on the vehicle is concerned, it is only the Collector who has jurisdiction to pass necessary order.

5. In view of the above, Petition is partly allowed and disposed of. The impugned order dated 04.11.2022 is quashed and set aside to the extent of imposing penalty of Rs. 2 lacs on the vehicle. No order is necessary as far as vehicle is concerned as the same is already released. The Collector to take decision within two months from today.

(KISHORE C. SANT, J.)