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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

966 WRIT PETITION NO. 11326 OF 2023

Dnyaneshwar Santosh Salunkhe

@ Patharvat

....Petitioner

VERSUS

The State of Maharashtra & others

.....Respondents

.....

Mr. B. S. Deshmukh, Advocate for the Petitioner.

Mr. K. S. Hoke Patil, AGP for the State.

CORAM : S. G. CHAPALGAONKAR, J.

DATE : 8th AUGUST, 2024.

PER COURT :

1. Heard Mr. Deshmukh, learned counsel for the Petitioner and Mr. Patil, learned AGP for the State.

2. Petitioner impugns notice dated 28.06.2023, issued by Respondent No. 2 – Sub-Divisional Officer, Erandol, whereby he has directed Petitioner to deposit an amount of Rs. 1,50,000/= on account of breach of personal bond dated 10.07.2018 executed in pursuance to the use of the tractor bearing Registration No. MH-10-CY-0589 for illegal transportation of mines and minerals.

3. Mr. Deshmukh, learned Advocate for Petitioner submits that the vehicle in question is purchased by him from its original owner and put to the use for his business. The vehicle was intercepted by the revenue authorities and the Petitioner was given show cause notice in terms of Section 48(7)(8) of M.L.R.Code as to why penalty of Rs. 1,22,885/- shall not be imposed against him for illegal transportation of the sand. In addition to that, penalty of Rs. 1,00,000/- was imposed for unauthorised use of the vehicle for transportation of mines and minerals. The Petitioner has deposited the said amount. Thereafter, the Petitioner is served with the impugned notice alleging that there is breach of the personal bond dated 10.07.2018 that was executed in relation to use of the same vehicle. Mr. Deshmukh would further point out that the personal bond dated 10.07.2018 has been executed by Mr. Prashant Pawar, who was the previous owner of the vehicle in question and the Petitioner was not aware about any such execution of the bond. Further, he submits that the Petitioner cannot be penalised for breach of bond executed by the previous owner.

4. Per contra, learned AGP submits that there is persistent unauthorised use of the vehicle in question for transportation of sand. In the year 2018, action was taken in terms of Section 48(8)(i) of M.L.R. Code. Accordingly, Mr. Prashant Pawar, the previous owner of the vehicle, has executed a bond that he shall not use the vehicle for illegal transportation of the minors minerals or any such unauthorised use, in default, he shall be liable to pay amount of Rs.1,50,000/-.

5. Having considered the submission advanced, it is apparent that the Petitioner was not the owner of the vehicle in question when the personal bond was executed. Thereafter, the Petitioner appears to have purchased the vehicle and thereafter he had put the same for his use. Personal bond executed by Prashant Pawar/previous owner cannot be used to impose penalty against the Petitioner. The action proposed under the impugned order does not find support under any of the provisions of the M.L.R. Code or Government Resolution or Circular. Respondents/authorities have no justification for penalising the Petitioner for breach of undertaking given by the previous owner.

6. In that view of the matter, the Petition succeeds and accordingly allowed in terms of prayer clause 'B'.

(S. G. CHAPALGAONKAR)
Judge

dyb