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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 15759 OF 2023

Laxman S/o. Namdeo Nannavare,
Age 57 years, Occ. Transport Business and Agriculturist
R/o. Bambhori, Tq. Dharangaon,
District Jalgaon.

Petitioner.

Versus

1. The State of Maharashtra
through its Secretary, Revenue Department,
M.S. Mantralaya, Mumbai.
2. Divisional Commissioner,
Nashik Division at Nashik, Dist. Nashik.
3. The Collector,
Jalgaon, Dist. Jalgaon.
4. Sub-Divisional Officer,
Faizpur, Tq. Yawal, Dist. Jalgaon.
5. The Tahsildar,
Yawal, Tq. Yawal, Dist. Jalgaon.

Respondents.

Mr. Shriram V. Deshmukh, Advocate h/f. Mr. Hareshkumar D. Patil
Advocate for the petitioner
Mr. S.N. Kendre, AGP for respondents.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 11TH JULY, 2024.

FINAL ORDER :-

1. Heard. Mr. Deshmukh h/f. Mr. Patil learned advocate for the petitioner. He would submit that the petitioner is the owner of a truck bearing No. MH-19- 1371 and holds a valid permit for five years. He is engaged in the business of transportation of sand. On 7.5.2021, the truck was intercepted at Amoda, while moving towards Faijpur and Circle Officer, Kingaon under the panchanama dated 7.5.2021 seized the vehicle under the pretext that valid royalty pass was not possessed by the driver. The petitioner was then served with a show cause notice. He submitted his explanation on 10.5.2021. However, vide order dated 19.5.2021, the Tahsildar imposed penalty of Rs. 2,65,980/- apart from penalty towards royalty of sand.

2. The petitioner impugned the aforesaid order before the Sub Divisional Officer in appeal No. 19 of 2021 on the ground that Tahsildar has no authority to impose penalty and also to seize the vehicle. The said appeal was dismissed vide order dated 22.7.2021. The petitioner has deposited 25% of penalty amount and prayed for release of the vehicle. However, his vehicle was not released. Then, the petitioner approached the Collector, Jalgaon in Second Appeal No.140 of 2021. Said appeal came to be dismissed. Then, the petitioner approached the divisional Commissioner, Nasik, in Revision Petition No. 555 of 2021. The petitioner submitted application dated 4.9.2022 that the contents of his revision application be considered as his written argument and his revision application be allowed. However, the Divisional Commissioner, under the impugned order dated 6/6/2022, dismissed the revision application for want of prosecution.

3. Learned advocate for the petitioner submits that, in fact, the

petitioner was holding a valid pass and his vehicle is unnecessarily seized since 2021 without authority under law.

4. The learned AGP, however, submits that petitioner failed to appear before the Divisional Commissioner on three consecutive dates. Consequently, the revision application has been dismissed for want of prosecution. No fault can be found in such order.

5. Having considered the submissions advanced, it is apparent that petitioner is fighting for his valuable right. His vehicle is seized since 2021, with the allegation that driver of his vehicle was not possessing valid pass. Per contra, the petitioner is coming with the case that he was having a valid pass and also raises objection as to jurisdiction of the Tahsildar to pass such order.

6. From the application dated 4.4.2022, relied upon by the petitioner it can be gathered that he had already conveyed that the grounds in the revision application be considered and appropriate orders be passed. In that view of the matter, revision application of the petitioner ought to have been decided on merit.

7. Considering the aforesaid circumstances, the it would be appropriate to remit the matter back to the Divisional Commissioner. Petitioner can also be given opportunity to present himself before the Divisional Commissioner and file written submissions, if he so desires. Hence, the following order :

ORDER

- [A] The writ petition is partly allowed;
- [b] The impugned order dated 6.6.2022 passed by the Divisional Commissioner – respondent No.2 is quashed and set aside;
- [c] The matter is remanded back to the respondent No.2 for afresh decision on merit. The petitioner shall appear before the Divisional Commissioner on 29.7.2024 and file his written notes of arguments, if any.
- [d] After hearing the petitioner, the Respondent No.2 shall, decide the revision application within a period of eight weeks on its merit, from the date of appearance of the petitioner before him.

**[S.G. CHAPALGAONKAR]
JUDGE**

grt/-