



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.336 OF 2024

MEGHNATH SITARAM FUNDE

VS

THE ADDITIONAL COLLECTOR, GONDIA AND OTHERS

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.R. Ingole, Advocate for the Petitioner/s

Shri K.R. Lule, AGP for the Respondent Nos.1 to 3/State

CORAM : ANIL S. KILOR, J.

DATE : 17.04.2024

1. Despite the judgment delivered by the Division Bench of this Court, in the year 2017, in the case of *BGR Energy System Ltd. Vs. Tahsildar, Saoner* and reported in **2018 (1) Mh. L.J. 332**, in the year 2024 in total ignorance of such judgment, wherein it has been held by the Division Bench that the excavation of earth for laying foundation of building and utilized in the same building itself, such excavated earth would not fall within the term of minor mineral, the Sub-Divisional Officer (SDO), passed the order dated 02.01.2024, imposing penalty of Rs.7,50,000/- upon the petitioner on the ground that he excavated the ordinary earth/Murum for leveling the agricultural field.

2. In the circumstances, I pass the following order:

(i) The writ petition is **allowed** in terms of prayer clauses (ii) and (iii), which are reproduced as under:

“(ii) quash and set aside the impugned order dated 02.01.2024 (Annexure-E) passed by the learned respondent no.2--Sub Divisional Officer, Deori, District-Gondia in R. Case No. 33/MNL-37/2023-2024 Mouza-Pauldouna, Tah. Amgaon;

(iii) direct the respondent nos.3 and 4-Sub Divisional Officer, Deori and Tahsildar, Amgaon to forthwith release the JCB. Machine bearing Registration No.MH-35-AG-6594, as per provisions of Section 48 (8) of the Maharashtra Land Revenue Code, 1966.”

3. The learned AGP is directed to bring this order to the notice of the concerned SDO and also the judgment in the case of *BGR Energy System Ltd. (supra)*, so that the concerned SDO shall not repeat the same mistake.

[ANIL S. KILOR, J.]