



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

WRIT PETITION NO. 4403/2023

Prafulla Kailas Karde and anr. .Vs. The Additional Collector, Amravati and Ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. C. A. Babrekar, Advocate for petitioners.
Mr. N. R. Patil, A.G.P. for respondent Nos. 1 to 3.

CORAM : ANIL L. PANSARE, J.

DATE : AUGUST 27, 2024

Heard Mr. C. A. Babrekar, counsel for the petitioners
and Mr. N. R. Patil, A.G.P. for respondent Nos. 1 and 2.

3. The petitioners are aggrieved by the action taken by respondents herein under the provisions of the Maharashtra Land Revenue Code, 1966 and particularly, Section 48 thereof. The petitioners carry a blame that they were transporting sand without keeping permit in the vehicle as also were carrying more quantity of sand than what was permitted under the Transport Permit.

4. Having heard both sides and having gone through the record, it appears that the petitioners were permitted to carry quantity of 2 brass, however, were found to be carrying quantity of 3 brass. The truck under question, which bears registration No. MH-31/CQ-6191 was intercepted by Talathi of Thillori on 07.01.2023. Detailed panchanama was prepared mentioning therein that quantity of the sand was 3 brass. The panchanama is signed by the driver and petitioner No.1, owner of the vehicle.

5. In response to the notice issued by Tahsildar, petitioner No.1 has filed reply stating therein that he was holding royalty (valid Transport Permit) but does not really dispute the quantity of sand viz.3 brass, mentioned in the seizure panchanama. The petitioners, for the first time, in the appeal filed before the Additional Collector, have taken a ground that they were carrying only 2 brass sand but the Tahsildar, mentioned 3 brass sand. The petitioners further state that panchanama was not done at the place. This plea, however, is contrary seizure panchanama. Most importantly, it has been signed by the petitioner No.1. This plea, therefore, is without any substance and is accordingly rejected.

6. Counsel for the petitioners, during the course of argument, has disputed signature of petitioner No.1 but unfortunately said plea has been not taken any time prior to filing writ petition or even in the pleadings in the writ petition. That being so, this Court cannot enter into finding of fact recorded by the authorities below that the truck was carrying sand admeasuring 3 brass. Admittedly, the Transport Permit issued was only for 2 brass and on this count alone, action taken by the authorities below will be justified. No interference, therefore, is called for in the impugned orders. The writ petition is accordingly dismissed. No order as to costs.

(Anil L. Pansare, J.)