



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

Writ Petition No.5357/2024

Kishor V Additional Collector, Bhandara and others

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

Court's or Judge's orders

Mr. A.R. Ingole, Advocate for petitioner.
Ms P. Joshi, AGP for respondent nos. 1 to 3.

CORAM : N.R. Borkar, J.

DATE : 14-11-2024.

This petition takes exception to the order dated 06-09-2024 passed by the respondent No.2-Sub-Divisional Officer, Tumsar.

ii. By the order impugned, respondent No.2 has directed the petitioner to pay the sum of Rs.25 Lakhs towards penalty for breach of bond executed by him in terms of Section 48(8) of the Maharashtra Land Revenue Code, 1966 (for short, 'the MLR Code').

iii. It is not in dispute that as the vehicle owned by the petitioner was found to be involved in unauthorized transportation of minor minerals, the same was released in terms of Section 48(8) of the MLR Code on execution of bond in the um of Rs.25 Lakhs. The said bond was executed

on 23-08-2023. On 16-07-2024 the very same vehicle was again found to be involved in unauthorized transportation of minor minerals i.e. sand. The petitioner in his statement dated 24-07-2024 has admitted the said fact and even showed his willingness to pay the penalty in terms of Section 48(7) of the MLR Code.

iv. The learned Counsel for the petitioner however, submits that there is no provision to impose penalty for breach of bond. It is submitted that the order impugned therefore cannot be allowed to stand.

v. Section 48(8) of the MLR Code reads thus :-

"(8) Without prejudice to the provision in sub-section (7), the Collector may seize and confiscate any mineral extracted, removed, collected, replaced, picked up or disposed of from any mine, quarry or other place referred to in sub-section (7), the right to which vests in, and has not been assigned by, the State Government.(8)[(1) Without prejudice to the provision of subsection (7), the Collector or any revenue officer not below the rank of Tahsildar authorised by the Collector in this behalf, may seize and confiscate any mineral extracted, removed, collected, replaced, picked up or disposed of from any mine, quarry or other place referred to in sub-

section (7), the right to which vests in, and has not been assigned by the State Government, and may also seize and confiscate any machinery and equipment used for unauthorised extraction, removal, collection, replacement, picking up or disposal of minor minerals and any means of transport deployed to transport the same.(2)Such machinery or equipment or means of transport, used for unauthorised extraction, removal, collection, replacement, picking up or disposal of minor minerals or transportation thereof, which is seized under sub-section (1), shall be produced before the Collector or such other officer not below the rank of Deputy Collector authorised by the Collector in this behalf, within a period of forty-eight hours of such seizure, who may release such seized machinery, equipment or means of transport on payment by the owner thereof of such penalty as may be prescribed and also on furnishing personal bond of an amount not exceeding the market value of the seized machinery, equipment or means of transport, stating therein that such seized machinery, equipment or means of transport shall not be used in future for unauthorised extraction, removal, collection, replacement, picking up or disposal of minor minerals and transportation of the same.] [Substituted by Maharashtra Act No. 27 of 2015, dated 17.8.2015.]"

vi. The submission of the learned Counsel for the petitioner cannot be accepted as the same would frustrate the very purpose of enacting the provision.

vii. The petition is dismissed.

(N.R. Borkar, J.)