



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

Writ Petition No.5482 of 2023

SHEIKH JAFAR SHEIKH SATTAR

VS

**STATE OF MAHARASHTRA, THR. SECRETARY, REVENUE AND FOREST
DEPT., MUMBAI 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 H.R. Dhumale, G.P. for the Respondents/State

CORAM : ANIL S. KILOR, J.

DATED : 08.01.2024

1. Heard.

2. The order dated 21.08.2023 passed by the Tahsildar, imposing penalty under the provisions of the Maharashtra Land Revenue Code, 1966 (MLR Code) for illegal transportation of sand, is under challenge.

3. The petitioner's whole case is based on the submission that, since the petitioner is having valid transit pass, there is no justification in seizing the vehicle under Section 48(8)(2) of the MLR Code and for this purpose, the learned counsel for the petitioner has placed reliance on the judgment of the Division Bench of this Court in Writ Petition No.917 of 2023 (*Nilesh Banudas Thakare Vs. State of Maharashtra*) passed on 21.03.2023. In the said judgment this Court has observed that, on account of overloading of the said vehicle, the Regional Transport Office Authority has taken an action against the said

petitioner for violation of the provisions of the Motor Vehicles Act, 1988 and therefore, for the same reason the action, under Section 48(7) of the MLR Code, appears to be unwarranted, especially when the petitioner possesses a valid transit pass. The Division Bench further observes that there is non-compliance of Section 48(8)(2) of the MLR Code as the vehicle was not produced before the Deputy Collector within a period of 48 hours and therefore, the Division Bench has found the seizure of vehicle as illegal.

4. In the matter at hand, to examine the correctness of the argument made by the learned counsel for the petitioner that the petitioner had a valid transit pass, I have perused the record and from the record, it is evident that, in the transit pass on which the petitioner is relying, which is filed at Page 18 of the paper book, the name of the owner is shown as Laxman Singh, whereas, the petitioner is Sheikh Jafar Sheikh Sattar.

5. The transit pass issued in the State of Madhya Pradesh (MP) shows the buyer's name is Jafar Sek, Buldhana. Even there is discrepancy in the quantity mentioned in the transit pass issued by State of Maharashtra and transit pass issued by the State of MP.

6. The Regional Transportation Authority's record shows that the vehicle involved in the alleged illegal transportation is owned by Razik Sattar Sheikh.

7. Thus, having considered the record and the discrepancies, I do not find any error committed by the learned Tahsildar in holding that the petitioner had an illegal transit pass.

8. In the circumstances, the judgment in the case of *Nilesh Banudas Thakare* (supra) is of no help to the petitioner in the present matter, as it is distinguishable on facts and accordingly, as there is no merits in the present writ petition, it is **dismissed**.

[ANIL S. KILOR, J.]