



(1)

49wp4285.25

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

49 WRIT PETITION NO. 4285 OF 2025

BABASAHEB EKNATH MASKE

....Petitioner

VERSUS

STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
OTHERS

.....Respondents

Mr. S. S. Kulkarni, Advocate h/f Mr. V. S. Kadam, Advocate for
the petitioners

Mr. P. P. Dawalkar, AGP for the respondents/State

CORAM : KISHORE C. SANT, J.

DATE : 02nd APRIL, 2025

P. C.

1. Heard the learned advocate for the petitioner for
sometime.

2. The petitioner has approached this court challenging
the order passed by the learned Collector, Beed dated 20-02-
2025 taking action under Section 48(7) and 48(8) of the MLRC,
imposing fine and penalty for transporting minor minerals. Such
orders are passed and total fine amount imposed is now

Rs.2,92,60,256/-. This order is passed on 25-05-2025 by the learned Tahasildar, Beed after the order passed by the learned Collector came to be passed.

3. At the outset the learned AGP points out that against the impugned orders imposing fine and penalty by the learned Collector there is remedy provided of filing appeal before the learned Divisional Commissioner, Chhatrapati Sambhajinagar.

4. The learned advocate for the petitioner vehemently submits that the impugned orders are passed without giving proper opportunity of hearing and thus are against the principles of natural justice and in such case the petitioner certainly can approach this court without availing alternative remedy. In support of his submission he relies upon the judgment dated 26-10-1998 in the case of Whirlpool Corporation Vs Registrar of Trade Marks, Mumbai and others. He submits that when first notice was issued to the petitioner, the petitioner had immediately responded to the authority, requesting the authority

to furnish the information, on the basis of which a show cause notice is issued. He drawn attention of this court to the communication addressed by the petitioner to the learned Collector showing endorsement of receipt of 28-01-2025. He submits that for giving explanation, he requires various reports such as reports of enquiry by the police and authorities, panchanama, details of particulars of spot from which the minor minerals as allegedly transported, CCTV footage of the toll-plaza showing the moment of the vehicle. It is stated that unless the said information is furnished he would not be in a position to submit explanation. It is ultimately prayed that if no such information is given, it would not be possible for the petitioner to reply the notice. In the alternative, it is stated that reply be considered as given in the writ petition No. 530/2025.

5. This court during the course of the argument put a query as to why the petitioner cannot approach the appellate forum. Only answer given is that the petitioner can approach this court since there is violation of principles of natural justice.

The alleged violation of principle of natural justice is that in spite of request by the petitioner, the authorities have not provided information. However, it is not clear as to what prevented the petitioner from giving the explanation on the basis of information, which is available with him and why he cannot give explanation without information sought for. Even otherwise all these things can certainly be pointed out to the appellate authority which will certainly consider all the aspect.

6. This court does not find it proper to entertain the petition at this stage where the petitioner has not availed appropriate remedy and has not even submitted explanation. During the course of the argument it is also pointed out that now the Collector has issued communication to the regional transport authority, Beed requesting to initiate an action to black list the vehicle involved in the alleged transportation of Minor and Minerals. This court finds that it is an independent cause of action and the petitioner can always avail remedy provided under law. For the reasons discussed, this court finds that writ

(5)

49wp4285.25

petition need not be entertained for want of alternative remedy and also for the reasons that so many questions of fact are involved which are required to be dealt with by the authorities.

With this, writ petition stands dismissed. No order as to costs.

[KISHORE C. SANT, J.]

VishalK/49wp4285.25