



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5779 OF 2025

Mod. Haneef Abbasali

...Petitioner

Versus

The State of Maharashtra & Ors.

...Respondents

- Mr. Apparao Bhimrao Kharosekar, for Petitioner.
- Mr. V. M. Kagne, AGP for Respondent – State.

CORAM : MANISH PITALE AND
Y. G. KHOBRAGADE, JJ.

DATE : 02nd SEPTEMBER 2025.

ORAL ORDER : (PER : MANISH PITALE, J.)

1. Heard learned counsel for the petitioner and the learned AGP for the respondents.

2. The principal contention raised in the present case is that seizure of the vehicle of the petitioner i.e. Hyva Tipper by the respondent No.5 – Police is unauthorized and illegal. Consequently, the petitioner seeks a direction for release of the vehicle. The learned counsel for the petitioner relies upon judgment of the Division Bench of this Court in the case of **Gufran Khan Rahmatullah Khan Vs. The State of Maharashtra & Ors.**¹

3. The material on record shows that the said vehicle of the

1 Judgment and order dated 13th March 2019, passed in Writ Petition No.8424 of 2018.

petitioner was intercepted on 07th April 2025 by the Police. It is alleged that the vehicle was illegally transporting minor minerals (sand). The vehicle was seized and kept in the premises of the City Police Station, Omerga, District Osmanabad (now Dharashiv). The document placed on record on behalf of the respondents show that thereafter, a revenue officer i.e. the Circle Officer executed a *panchnama*, recording that the minor mineral was being illegally transported. Thereupon, appropriate proceedings under Section 48 of the Maharashtra Land Revenue Code, 1966 (Code) were undertaken, which culminated in an order dated 21st April 2025, passed by the respondent – Sub Divisional Officer imposing a penalty on the petitioner of Rs.4,71,565/-. This was based on findings rendered against the petitioner as regards illegal extraction and transportation of the said minor mineral. It is an admitted position that an appeal filed by the petitioner under Section 247 of the aforesaid Code was dismissed on 01st July 2025 by the respondent – Collector. It appears that thereafter, the petitioner has yet not filed a further appeal available under the said Code.

4. The learned counsel for the petitioner essentially relies upon the aforesaid judgment of the Division Bench of this Court,

followed subsequently by this Court in other petitions also, to contend that since the seizure of the vehicle by the Police is itself unauthorized, the vehicle ought to be released forthwith.

5. On the other hand, the learned AGP submits that the Collector has dismissed the appeal and in the absence of any further challenge, the order of the respondent – Sub Divisional Officer has been confirmed, thereby requiring the petitioner to pay the said penalty amount. It is submitted that upon the vehicle being intercepted by the Police, it was merely kept in the police station and thereupon, the revenue officers have taken appropriate proceedings under the said Code.

6. We have perused the aforesaid judgment of the Division Bench in the case of **Gufran Khan Rahmatullah Khan Vs. The State of Maharashtra & Ors. (supra)**. In a similar situation the police seized the vehicle without registration of an offence, it was held that such seizure by Police was illegal and an order was granted in favour of the petitioners therein.

7. We find that in the facts of the present case, it would not be appropriate to grant relief to the petitioner unconditionally. As on

today, the order of the respondent – Sub Divisional Officer as confirmed by the respondent – Collector in appeal shows findings against the petitioner with regard to such illegal extraction and transportation of the minor mineral. Penalty has been imposed. Although the respondents and particularly the Police Authority have not been able to justify action of the police in seizing the said vehicle, we are inclined to allow the present petition, although by imposing appropriate conditions.

8. In this regard a perusal of Section 48 (8)(2) of the Code shows that if the Collector or any revenue officer authorised by the Collector seizes such means of transport concerned with illegal extraction and transport of minor minerals, the Collector or an officer not below the rank of Deputy Collector can order seizure of such vehicle upon specific conditions being satisfied as enumerated in the said provision.

9. In Writ jurisdiction, we are of the opinion that this Court also can impose similar conditions or even additional conditions on the petitioner for releasing the vehicle, particularly when respondent – Sub Divisional Officer, as the original authority and the respondent – Collector as the Appellate Authority, have returned findings against the

petitioner with regard the such illegal extraction and transport of minor mineral. We also find that, as on today, the petitioner has not challenged the order of the Appellate Authority i.e. the Collector.

10. At this stage, the learned counsel for the petitioner, on instructions, submits that the petitioner would immediately file an appeal before the Commissioner as provided under the said Code, and therefore, this Court may consider directing release of the vehicle.

11. In view of the above, the writ petition is allowed in the following terms :

- (A) The subject vehicle of the petitioner shall be released by the respondent No.5 on satisfaction of the condition that the petitioner files an appeal before the Commissioner within two weeks from today and produces proof of the same before the respondent – Collector, who would then intimate the respondent No.5 – Police Official about filing of such appeal.
- (B) The petitioner shall file an undertaking and furnish personal bond on affidavit before this Court as also the Commissioner in the proposed appeal for an amount not exceeding of a market value of the aforesaid vehicle, stating that the said vehicle shall not be used in future for any unauthorized extraction, removal, collection, replacement, picking

up or disposal of the minor minerals or transportation of the same. Such an undertaking and personal bond shall be furnished within the aforesaid period of time.

- (C) The petitioner is further directed, as a condition for release of the vehicle, to deposit 25% of the penalty amount along with the proposed appeal before the Commissioner and to produce proof of the same before respondent No.5 for enabling release of the vehicle.

12. We make it clear that unless all the conditions imposed hereinabove, are appropriately satisfied by the petitioner, the vehicle shall not be released by the respondent No.5.

13. In the abovementioned undertaking on affidavit, the petitioner shall also state that he shall produce the vehicle before the Commissioner where the proposed appeal is to be filed, if and when directed.

(Y. G. KHOBRAGADE, J.)

(MANISH PITALE, J.)