



**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

906 WRIT PETITION NO. 6735 OF 2025

**SOMNATH TANHAJI SHERMALE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Mr. Deepak Kashiram Rajput, Advocate for the Petitioner
Mr. D. R. Korade, AGP for Respondents-State

CORAM : S. G. CHAPALGAONKAR, J.

DATE : 26.06.2025

PER COURT :-

1. Petitioner impugns order dated 30.04.2025 passed by Addl. District Collector, Dhule in the matter RTS/Appeal/Gou.Kha./28/2025, thereby confirming order dated 08.04.2025 passed by learned Sub-Divisional Officer, Dhule in matter No. Gau.Kha./Kavi/345/2025, thereby imposing penalty of Rs. 4,50,053/- alongwith 10% DMF of Rs. 4903/- against the petitioner. Petitioner further prays for direction against respondent authorities to release vehicle seized by them.

2. Petitioner is owner of vehicle which has been used for transportation of sand from State of Gujarat to designated places in State of Maharashtra. On 29.03.2025, when his vehicle entered State of Maharashtra, it was intercepted by police, although it was having valid transportation pass.

3. It is alleged that vehicle was carrying excess sand beyond the limits of royalty permit. According to petitioner, he was served with show

cause notice dated 02.04.2025, which was responded on 04.04.2025 contending that vehicle was carrying sand as per permit and request was made for recalibration of vehicle. However, without considering his request learned Sub Divisional Officer passed impugned order directing petitioner to pay penalty of Rs. 4,50,053/- alongwith 10% DMF of Rs. 4903/-. Petitioner challenged aforesaid order in appeal before District Collector and reiterated his request for recalibration. However, same has not been considered, ultimately rejected appeal.

4. Learned Advocate appearing for petitioner advanced two fold submissions. Firstly, according to him, denial of request for recalibration of vehicle has resulted into gross miscarriage of justice. Secondly, if vehicle was carrying excess sand, then penalty ought to have been imposed to the extent of excess quantity transported in violation of permit. However, penalty of Rs. 2 lac is imposed alleging use of vehicle for transportation of excess sand which cannot be justified.

5. Learned AGP in response, submits that on 29.03.2025 panchanama was carried. Accordingly, calibration of vehicle was done indicating transportation of excess sand beyond permit and royalty pass. Petitioner admitted said fact, accordingly panchnama is drawn.

6. Having considered submissions advanced, it can be observed that petitioner has disputed allegation that his vehicle was carrying excess sand although calibration of vehicle was made. Petitioner in his reply to notice

specifically requested for recalibration before Sub Divisional Officer. However, his request was not considered, even appellate authority ignored such request.

7. This Court in several orders, particularly in case of ***Karan Chhaganlal Jain Vs. State of Maharashtra in Writ Petition No.14257 of 2023*** decided on 09.11.2023 observed that State Government shall frame appropriate rules as regards to recalibration of vehicle. However, such rules are not yet framed. This Court time and again directed that in case of dispute as regards to weight of vehicle, if request is made for recalibration within reasonable period that shall be accepted. In present case, it appears that authorities have ignored request of petitioner stating that calibration of vehicle was already done immediately after seizure of vehicle. Such approach cannot be countenanced.

8. Learned Advocate appearing for petitioner relying upon order dated **24.07.2023** passed by this Court in case of ***Kunal Satish Bhavsar Vs The Tahsildar, Pimpalner in Writ Petition No.8790 of 2023*** contends that if vehicle was found carrying excess sand then penalty ought to have been imposed only on that part of sand which was beyond permit. In such case authorities could not have imposed penalty of Rs. 2 lack for use of vehicle for transportation of excess sand. According to him, such penalty can be imposed when vehicle was carrying sand without permit or pass. The same is not case here.

9. Considering aforesaid submissions, it appears that order impugned cannot be sustained in law. Hence, following order is passed:

::ORDER::

- a. Writ petition is partly allowed.
- b. The impugned orders passed by Learned Sub Divisional Officer and District Collector are quashed and set aside.
- c. Respondents / authorities shall permit recalibration of petitioner's vehicle within a period of two (02) weeks from today.
- d. Subject to result of recalibration, after giving opportunity of hearing to petitioner Sub Divisional Officer shall decide if penalty can be imposed in respect of unauthorised use of vehicle when vehicle had necessary permit for transportation of sand in light of observations of this court in case of **Kunal Vs. The Tahsildar** and in terms of Government Resolution dated 12.01.2018 as well as other relevant Government Resolutions.
- e. Writ petition stands disposed of in aforesaid terms.
- f. Petitioner shall appear before Sub Divisional Officer on 30.06.2025.
- g. On his appearance further course of action shall be undertaken.

[S. G. CHAPALGAONKAR, J.]

HRJadhav