2025:BHC-AUG:20090

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

44 WRIT PETITION NO. 8441 OF 2025

VITTHAL ABAJI KASAR
VERSUS
THE STATE OF MAHARASHTRA THROGUH ITS SECRETARY AND OTHERS
...
Advocate for the Petitioner : Mr. Apparao Bhimrao Kharosekar
AGP for Respondent nos. 1 to 4 : Mr. K.S. Patil
...

CORAM : S. G. CHAPALGAONKAR, J.

DATE : 28.07.2025

PER COURT :

The present writ petition is filed with prayer clause 'B'

> *"B) By issuing writ of mandamus/writ of certiorari or any other appropriate writ order or direction the order/show cause notice dated 30.06.2025 bearing O.No. Kavi/Jama1/683/2025, passed by respondent no. 4 Additional Tahsildar, Ahmednagar, may kindly be quashed and set aside."*

2. The petitioner is owner of vehicle bearing No. MH-06/AQ-9796. On 24.06.2025, Circle Inspector of village Nalegon and Gram Revenue officer of village Chakrana (Bk.) and Darewadi seized the vehicle alleging transportation of three brass metal stone (Khadi). A panchnama was drawn and a report was made to respondent no. 4- Additional Tahsildar, Ahmednagar. On 30.06.2025 respondent no. 4-Additional Tahsildar issued show cause notice as to why penalty should not be imposed against the petitioner for illegal transportation of metal stone (khadi).

3. Mr. Kharosekar, learned advocate appearing for the petitioner submits that the vehicle alleged to have seized while carrying metal stone (Khadi). Same does not fall within the meaning of minor minerals. According to him the mental stone is a finished product and same is not governed by the scheme under section 48 of the Mines and Mineral (Development and Regulation) Act, 1957 or under Section 47 and 48 of the Maharashtra Land Revenue Code. In support of his submission he relied upon the observations of this Court in Writ Petition No. 8194/2022 between **Vishal Laxman Shinde Vs. State of Maharashtra** and division bench judgment in case of **Pralhad Vishnu Wayade and others Vs. State of Maharashtra and others (Writ Petition No. 4077/2009**), wherein the division bench observed as under:

> *"While the learned Assistant Government Pleader Ms. T.H. Khan would advance serious and prolonged submissions on the lines of what is stated in the affidavit, it is difficult to agree with the submission that gitti or metal stone is not a finished product and further, even if it is assumed that gitti or metal stone is a finished product, its transportation can be regulated. The argument that 'gravel' which is defined as a 'mineral' in the Act of 1957 must be widely and expansively interpreted to include gitti or metal stone, merits rejection. The term 'gravel' which is used in the company of several other products which are defined as 'minerals' clearly refers to gravel in the natural form found in the river-bed etc. Moreover, the Division Bench has already held that gitti or metal stone is a finished product and it would neither be appropriate nor permissible for me to take a contrarian view. The other submission is that even a finished product can be regulated under the Code considering that the efficacy of the regulatory regime depends on such control and regulation, which argument is negatived by the Division Bench in Pralhad s/o Vishnu*

> *Wayade and others V. The State of Maharashtra and others in Writ Petition 4077/2009. I am bound by the sald decision of the Division Bench."*

4. Per contra, Mr. Patil learned A.G.P. appearing for the respondents, submits that for transportation of stone metal or Khadi the name of the trading licence holder on the Electronic Transfer Pass (ETP) is necessary. The petitioner had neither submitted secondary transport pass nor hold online ETP mentioning the name of the petitioner as trading licence holder before transporting the mental stone in the vehicle.

5. Having considered the submissions advanced, it can be observed that this Court has reiterated in catena of judgments that the penalty under Section 48(7) of the Maharashtra Land Revenue Code, would not attract when the vehicle was transporting gitti or metal stone (khadi). In present case the penalty is sought to be imposed for transportation of the finished product like metal stone, which is not governed by Mines and Mineral (Development and Regulation) Act, 1957. Although, the respondents are contending that 'E' pass would be necessary, nothing is placed on record to indicate that the statutory provision requiring secondary transport pass for transportation of the metal stone that it is finished product.

6. In that view of the matter, this Court has no hesitation to hold that the impugned show cause notice is invalid and cannot be sustained in law. In result, the writ petition is allowed in terms if prayer clause 'B'. Respondent nos. 3 and 4 shall forthwith release the vehicle No. MH-06/AQ-9796. The writ petition accordingly stands disposed of.

(S. G. CHAPALGAONKAR, J.)

mkd/-