

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4602 OF 2023

Dinkar Piraji Gaikwad

... Petitioner

Versus

The State of Maharashtra & Ors.

... Respondents

Adv. Benazir Inamdar a/w. Adv. Rati S. Sinhasane i/b. Adv. Umesh R. Mankapure for the Petitioner.

Adv. A.P. Vanarase, A.G.P. for the Respondent-State.

Coram : M. S. Karnik &
Ajit B. Kadethankar, JJ.

Date : 22nd December 2025.

P. C. :

1. Heard learned counsel for the Petitioner. Learned A.G.P. supported the impugned Order.
2. By an order dated 29th March 2017 passed by the Tahsildar, Sangola, the Petitioner's truck bearing registration No. MH-06/K-7221, which was allegedly carrying 4 brass of sand without a licence, was seized and a fine was imposed.
3. Against the Order dated 29th March 2017 the Petitioner filed an Appeal before the Sub-Divisional Officer (S.D.O.), Mangalwedha. The

S.D.O. by the Order dated 12th September 2017 dismissed the Appeal, as the Petitioner did not remain present.

4. Learned counsel for the Petitioner submits that in the written reply filed before the Authority-S.D.O. on 3rd June 2017, it was clearly stated that the Petitioner is the owner of the truck, which had the requisite permission. It is submitted that without considering the reply, the Tahsildar passed impugned Order on 29th March 2017, stating that no permission was issued by the Collector for transporting the sand and directed to pay fine of Rs.2,02,800/-.

5. Aggrieved by the Order dated 12th September 2017 passed by the S.D.O., the Petitioner preferred an Appeal under Section 247 of the Maharashtra Land Revenue Code, 1966 before the Additional Collector, Solapur. The Additional Collector by his detailed Order dated 26th November 2018 confirmed the Order dated 12th September 2017 passed by the S.D.O..

6. Learned counsel for the Petitioner submits that the truck is illegally detained in custody and despite having valid permission from the Collector, the Order has been passed against the Petitioner. It is submitted that due to some genuine reasons, the Petitioner could not remain present before the Appellate Authority i.e. the S.D.O.. It is submitted that if an opportunity is given to the Petitioner to present his

case before the Appellate Authority-S.D.O., the Petitioner would be in a position to satisfy the Appellate Authority-S.D.O. by relying on the materials available that the impugned Order passed by the Tahsildar is incorrect.

7. Learned counsel for the Petitioner relied upon the decision of this Court in *Vivek s/o. Madhukarrao Sakhare Vs. State of Maharashtra*¹. It is submitted that the impugned Order could not have been passed by an Officer below the rank of Deputy Collector.

8. Since the Petitioner did not appear before the Appellate Authority-S.D.O. and considering that the issue involves the livelihood of the Petitioner, we are of the opinion that, in view of the submissions made by the learned counsel for the Petitioner regarding the genuine difficulty faced by the Petitioner in appearing before the Appellate Authority, the order passed by the Appellate Authority deserves to be quashed and set aside by giving an opportunity to the Petitioner. The Appeal is remitted back to the Sub-Divisional Officer for fresh consideration, to be heard on its own merits and in accordance with law. It is open for the Petitioner to rely upon all the materials and the decisions of this Court in support of the submissions.

1 Writ Petition No. 3831 of 2020 & Other connected Petitions, dated 29th September 2025.

9. The Appeal to be decided by the S.D.O. as expeditiously as possible and preferably within a period of 12 weeks from 6th January 2026, when the Petitioner shall appear before the S.D.O. along with copy of the present Order. The S.D.O. shall not be influenced by the Order dated 26th November 2018 passed by the Additional Collector or by any observations made therein and shall decide the appeal independently on its own merits, after affording a fair opportunity to the Petitioner. The order dated 26th November 2018 passed by the Additional Collector is accordingly quashed and set aside.

10. The truck of the Petitioner is seized far back in 2017. In such view of the matter, we are of the view that, without expressing any opinion on the merits of the case and at this distance of time, the ends of justice would be met if the Tahsildar is directed to release the truck of the Petitioner forthwith on his furnishing a bond to the effect that, in the event of any adverse order being passed, the said truck shall be produced and returned as directed. The undertaking shall specifically mention that the truck shall not be sold without obtaining prior leave of the competent Authority.

11. Petition is disposed of in above terms.

[Ajit B. Kadethankar, J.]

[M. S. Karnik, J.]