



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Writ Petition No. 1832 of 2025

[Prashant Nilkanthrao Deshmukh ..vs.. The Additional Collector, Yavatmal
and ors.]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mrs. A. M. Raut - Narwade, Advocate for the petitioner
Mrs. K. H. Bhongade, AGP for the respondents

CORAM : ANIL L. PANSARE J.

DATED : 09-06-2025

Heard.

2. On 21-4-2025, following order was passed.

“Heard.

The petition arises out of provisions of the Maharashtra Land Revenue Code, 1966 (for short, ‘the Code’), particularly, Section 48 thereof.

The argument is that the police officer of Mahagaon Police Station and not the Tahsildar concerned has seized the vehicles on the ground that sand was being transported without valid transit pass. Accordingly, Police Inspector vide letter dated 10-3-2024 informed Tahsildar, Mahagaon of seizure of two tractors. It appears that police officer has informed the Tahsildar of such seizure for imposing penalty.

The Tahsildar issued letter dated 12-3-2024 to Circle Officer, Mahagaon referring to letter dated 10-3-2024 issued by police officer and instructed Circle Officer to approach police station and to draw panchanama and to submit the same to Tahsildar. The panchanama, however, has been drawn by Talathi. Thereafter, Tahsildar proceeded to impose penalty vide impugned order dated 8-5-2024.

Thus, it appears that the vehicles under question have been seized by the police officer and not by the revenue officers as required under Section 48(8)(1) of the Code. Despite such status, the Tahsildar, by the impugned

order, referred the matter to Sub Divisional Officer (SDO) without producing the tractors before him. This action runs contrary to sub-clause (2) of sub-section (8) of Section 48 of the Code which provides that machinery/equipments used for unauthorized extraction/removal etc. of minor minerals seized under sub-clause (1) of sub-section (8) ought to be produced before the officer authorized by the Collector within a period of 48 hours of such seizure, who, in turn, may release the machinery/vehicle on payment by the owner thereof such penalty, as may be prescribed under the said provision.

Thus, what transpires is that police officer of Mahagaon Police Station has seized two tractors on 10-3-2024. Upon receiving information, the Tahsildar has instructed Circle Officer, Mahagaon to approach police station for drawing panchanama. However, the panchanama was drawn by Talathi, who placed the same before the Tahsildar, upon which, the Tahsildar imposed penalty on minor minerals/sand. The Tahsildar has then not produced the tractors before the SDO, however, the SDO has by order dated 3-1-2025 imposed penalty of Rs. 1,00,000/- for use of vehicle.

The argument is that both the orders run contrary to provisions of law. According to learned counsel for the petitioner, it is well settled that police officer cannot seize the vehicles under Section 48 of the Code nor can SDO impose penalty without production of vehicle.

Issue notice, returnable in three weeks.

Learned Assistant Government Pleader waives notice for the respondents.

In the meantime, respondent no. 4 - Police Station Officer, Police Station, Mahagaon shall release both the tractors in favour of the petitioner.”

As could be seen, the tractors were seized by Police Officer of Mahagaon Police Station.

3. The Division Bench of this Court in Writ Petition No. 8424/2018 (Gufran Khan Rahmatullah Khan Vs. State of Maharashtra and ors.) by judgment dated 13-3-2019 has held that under Section 48(8)(1) of the Maharashtra Land Revenue

Code, 1966, the power to seize vehicle is vested with the Tahsildar concerned and not the police officer. The seizure of vehicles by police was held to be without jurisdiction and consequent/further actions taken by the revenue authorities were held without jurisdiction.

4. The same course will follow in the present case as well. The tractors under question having been seized by Police Station, Mahagaon and further action having been taken by revenue authorities, the entire action including imposing penalty is without jurisdiction.

5. Writ petition is accordingly allowed. Order dated 8-5-2024 passed by Respondent No. 3 – Tahsildar, Mahagaon, District Yavatmal imposing penalty on minor minerals, order dated 18-12-2024 passed by Respondent No. 2 – Sub Divisional Officer, Umarkhed, District Yavatmal confirming order dated 8-5-2024 and order dated 3-1-2025 passed by Respondent No. 2 – Sub Divisional Officer imposing penalty on vehicles are quashed and set aside.

6. As regards release of tractors, learned Assistant Government Pleader submits that the tractors have been already released. No order is, therefore, called for on this count.

7. The petition is disposed of in above terms. No order as to costs.

(Anil L. Pansare, J.)