



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.1325/2021

Alim Khan s/o Male Khan .Vs. State of Maharashtra, Ministry of Revenue and Forest,
Mantralay, Mumbai and Others

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

Court's or Judge's orders

Ms R. V. Kukday, Advocate for petitioner.

Mr. H. R. Dhumale, A.G.P. for respondent Nos.1 to 4.

CORAM : ANIL L. PANSARE, J.

DATE : MARCH 4, 2025

Heard.

2. Having gone through the record, it appears that the police have seized vehicle under question i.e. truck bearing registration No.MH-27/BX-3121, on the count of transportation of minor minerals, which were in excess quantity than what has been stipulated in the transport permit.

3. This Court, in the case of *Shri Prasad s/o Chakradhar Bhagul Vs. State of Maharashtra and Ors. [Writ Petition No.1080/2021, decided on 26.02.2025]*, held that action of seizure by police is without jurisdiction as the jurisdiction lies with the revenue authorities under the provisions of the Maharashtra Land Revenue Code, 1966. Since the initial action of seizure at the hands of police is found to be without jurisdiction, all further actions taken in the present case by the revenue authorities would also stand without jurisdiction.

4. Police Station, Nandgaon Peth, in the present case, had thus no jurisdiction to seize the vehicle under Section 48 of the Maharashtra Land Revenue Code, 1966 and, therefore, Tahsildar could not have invoked Section 48(8), to impose penalty on the truck

which, even otherwise, is not permissible inasmuch as Section 48 (8) provides that the penalty on the means of transportation of minor minerals shall be imposed by an officer not below the rank of Deputy Collector. Thus, the Tahsildar had no jurisdiction to impose the penalty.

5. That being so and in terms of what has been stated in the order passed in *Shri Prasad Bhagul's* case above, the order impugned will not stand to the scrutiny of law.

6. The petitioner has thus made out a case. The writ petition is accordingly allowed. Order dated 13.01.2021 passed by respondent No.3 – Tahsildar is quashed and set aside. Amount of Rs.1,00,000/-, deposited by petitioner with Tahsildar, Amravati shall be remitted back to the petitioner, without four weeks from today. No order as to costs.

(Anil L. Pansare, J.)

Kahale