



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

WRIT PETITION NO.4423/2024

Mohd. Aslam Ansari Jabir Ansari

Vs.

The Additional Collector, Yavatmal and others

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

Court's or Judge's orders

Shri A.R. Ingole, Advocate for petitioner
Shri B.M. Lonare, AGP for respondent Nos.1 to 3

CORAM : SMT. M.S. JAWALKAR, J.

DATED : 05/03/2025

Heard learned Counsel for petitioner and
learned AGP for respondent Nos.1 to 3/State.

2. It appears that the contention of the
petitioner is that there was valid transit pass for the
vehicle No. MH-40 CM-7216 for transporting minor
mineral of eight brass. The date of validity is
20.12.2023. The said vehicle failed near 'Citizen
Dhaba' on 20.12.2023. One brass sand in the said
truck was transferred in the tractor bearing No.MH-
29- C-4604 to drop it at the destination. However, in
between, it was seized by the Tahsildar on the ground
that there was illegal transportation of sand.

3. The learned Tahsildar vide its order dated
27.12.2023, imposed penalty of Rs.22,320/- on the
ground that there was no permission to transport sand
in the tractor, which is seized.

4. The Sub-Divisional Officer also while
exercising powers under Section 48 (7) of the MLR

Code imposed penalty of Rs.1,00,000/- (One Lakh) vide order dated 29.12.2023. Both these orders have challenged before the Additional Collector.

5. It is the contention of the petitioner that both the authorities failed to consider that what is submitted by the petitioner herein that the vehicle which was having transit pass failed near 'Citizen Dhaba' and the sand was required to be transferred through tractor trolley, which was seized.

6. It is contended that in view of the Government Resolution dated 26.12.2014, there is system developed i.e. Sand Mining Approval and Tracking System, which is based on mobile. The transit pass holders are required to give three phone numbers at least to the authorities so that the vehicle can be tracked and it can be verified that it is travelling as per transit pass. If that would be the case, it was contended that vehicle which was having transit pass failed near 'Citizen Dhaba' can be verified by the authorities by the system. However, no such efforts taken by the authorities before passing the order.

7. In my considered opinion, there is no any provisions at least placed before me either by the petitioner or by the learned A.G.P. that in case of failure of vehicle and transit pass, which is likely to be expired, what would be the steps, the owner of the vehicle to take. Is there any period granted to reach the material at its destination.

8. It is admitted fact that failure of vehicle is not

intimated to the authorities, however certainly authorities can verify the truth in the contentions. As such, in my considered opinion, the order passed by both the authorities below are liable to be set aside and the matter needs to be remitted back to the Additional Collector for reconsideration of the issue in view of the Government Resolution dated 26.12.2014.

9. The petitioner herein is directed to deposit 50% of penalty imposed by the Sub-Divisional Officer and total amount of penalty imposed by the Tahsildar.

10. The Collector shall release the vehicle in question, if such amount is deposited, thereafter, the Collector shall decide the matter afresh for hearing and also consider the Government Resolution dated 26.12.2014 as referred above.

11. The parties to appear before the Collector, on 26.03.2025.

12. The Writ Petition stands disposed off in above terms.

JUDGE

R.S. Sahare