



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

WRIT PETITION NO.3627 OF 2020

Shri Vinod S/o Gangadhar Cherrot
Aged about 58 years, Occ: Business,
R/o Purohit Colony, Near Hanuman
Mandir, Malkapur, Dist. Buldhana.

...PETITIONER
(Orig. Non-applicant)

...V E R S U S...

1. State of Maharashtra,
Through Ministry of Revenue and
Forest Department, Mantralaya,
Mumbai-32, Through Secretary.
2. The Collector,
Office of District Collector,
State Bank Chowk Road,
Dist. Buldhana.
3. The Tahsildar,
Office of District Collector
State Bank Chowk Road,
Dist. Buldhana.
4. The Naib Tahsildar,
Office of District Collector
State Bank Chowk Road,
Dist. Buldhana.

...RESPONDENTS

Shri A.R. Prasad, Advocate for appellant.
Shri H.D. Dubey, AGP for respondents/State.

CORAM:- M.W. CHANDWANI, J.
DATED :- 09.10.2025

ORAL JUDGMENT:

1. **Rule.** Rule made returnable forthwith. Heard finally by
consent of learned counsels appearing for the parties.

2. The petition challenges the order dated 05.11.2020 passed by the Tahsildar, Buldhana under Section 48 (8) of the Maharashtra Land Revenue Code, 1966 (for short, “**MLR Code**”) imposing the penalty equivalent to five times of the market value of the minor mineral i.e. sand, which was being transported illegally (without a valid transit pass) and also imposing a penalty of ₹2 lakhs for releasing the vehicle bearing registration No.MH-28-AB-9282.

3. Having heard the learned counsel for the petitioner as well as the learned Assistant Government Pleader appearing on behalf of the State and having gone through the impugned order, relevant documents and the Government Resolution dated 14.06.2017, it transpires that the truck of the petitioner was seized while transporting sand beyond the specified period mentioned in the Electronic Transit Pass (ETP). The Tahsildar disbelieved the defence of the petitioner that the vehicle broke down on the way while carrying the sand, which delayed the transportation by a day. Consequently, the Tahsildar imposed a penalty equivalent to five times of the market value of the sand which was being transported and also directed the petitioner to pay an amount of ₹2 lakhs for releasing the vehicle which was being used for transporting the sand. There is nothing on record to suggest that

break down of the vehicle was informed to the concerned officer before the truck was seized, the Tahsildar has rightly held that the sand was being transported without a valid ETP.

4. My attention has been drawn by the learned counsel for the petitioner to the Government Resolution dated 14.06.2017 whereby, directions have been issued to impose the penalty equivalent to two times of the market value for the first default and five times on subsequent defaults. However, the Tahsildar without considering the Government Resolution dated 14.06.2017 erroneously imposed the penalty equivalent to five times under Section 48(8) of the MLR Code. The penalty imposed by the Tahsildar is required to be reduced to the extent of two times of market value of the minor mineral.

5. That apart, in the wake of Section 48(8)(2), it is the Collector or the Deputy Collector specially authorized by the Collector or any other officer not below the rank of a Deputy Collector authorized in this behalf who may impose the penalty for releasing the vehicles used in the illegal transportation of minor minerals. In the present case, it is the Tahsildar who is below the rank of a Deputy Collector who has imposed the penalty of ₹2 lakhs for release of the vehicle. There is no reference in the impugned order that on an earlier occasion also, the petitioner was

penalized for transporting minor minerals illegally. Therefore, imposing of penalty for release of vehicles by the Tahsildar is without jurisdiction.

6. In view of the above, the petition is partly allowed.

7. The penalty imposed for transporting minor minerals without permit is reduced to ₹43,500/-, which is double of ₹21,750/- (market value of the minor minerals extracted) apart from ₹2,900/- towards royalty. The petitioner is liable to make a total payment of ₹46,400/-. It is informed that the petitioner has already deposited an amount of ₹2 lakhs with respondent no.3- the Tahsildar under order of this Court. Therefore, rest of the amount be refunded to the petitioner within six weeks from today.

Rule made absolute in the above terms.

Wagh

JUDGE