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

WRIT PETITION NO.233/2025

Sagar Subhash Bhoyar and anr. .Vs. State of Maharashtra and Ors.

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

Mr. M. I. Dhatrak, Advocate for petitioners.
Ms K. Marpakwar, A.G.P. for respondent Nos. 1, 3 and 4.

CORAM : ANIL L. PANSARE, J.
DATE : FEBRUARY 11, 2025

Heard.

3. On 05.02.2025, following order was passed.

> *"The contention is that police has seized the vehicle without authority. Learned counsel for the petitioners has placed reliance upon following judgments of this Court.*
> *(1) Writ Petition No. 8424/2018 (Gufran Khan Rahmatullah Khan Vs. State of Maharashtra and ors.) dated 13-3-2019 passed by the Division Bench and*
> *(2) Writ Petition No. 2623/2022 (Salman Illiyas Kha Pathan Vs. State of Maharashtra and ors.) dated 3-6-2024.*
> *Learned Assistant Government Pleader shall go through the same and make submissions.*
> *Stand over to 11-2-2025."*

4. Learned A.G.P., though submits that the police has seized vehicle, she seeks time to file reply.

5. If that be so, in the light of the judgment referred to by the petitioners, it will be appropriate to order release of the vehicle. In fact, the record indicates that police and revenue authorities have, without any reason, muchless justified reason, seized the vehicle under question i.e. JCB. What transpires from the record is that on 30.11.2024, Police Sub Inspector concerned, on receiving information, visited the agricultural land belonging to one Mr. Raut, to find that one JCB and two tractors were being utilised to transport minor minerals namely Murum and stones. The report dated 01.12.2024 to that effect was submitted by the PSI concerned to Tahsildar, Ghatanji. It indicates that

only JSB was found at the spot, the tractors were taken away. The report does not demonstrate that the PSI had found traces of Murum or stone at the spot. Thus, the report, even if accepted as it is, will only establish that JDB was standing in the agricultural field belonging to Mr. Raut. Rest of the contents are hearsay and are not substantiated by any evidence either on 30.11.2024 or thereafter. Despite such status, the PSI has seized the JCB. Surprisingly, the Sub Divisional Officer, on the basis of such information/ report, has imposed penalty of Rs.7,50,000/- in terms of Section 48 of the Maharashtra Land Revenue Code, 1966.

6. Perusal of order dated 27.12.2024 passed by Sub Divisional Officer will show that whatsoever stated by the PSI concerned has been taken as a gospel truth. The Sub Divisional Officer has recorded that on information received, the Police squad and revenue officers had inspected the spot and found two tractors and JCB. Thus, the initial story of PSI reaching the spot is improved and the visit of revenue officer is added without any justification of whatsoever nature. The order further indicates that taking advantage of darkness, the drivers of the tractors have fled away. Nobody knows the location of two tractors and whether the tractors were filled with Murum and/or stones and ultimately where did they go. These facts could have been revealed in further inquiries, however, no efforts were taken by police officers or the revenue officers or Sub Divisional Officer to verify the so called information received. Name of the informant is also not disclosed.

7. In the circumstances, the Sub Divisional Officer should justify imposing penalty of Rs.7,50,000/-. Further and for the casual, negligent and arbitrary manner of dealing with the issue, which affects the earning source of a person, let show cause notice be issued to PSI Shashikant Nagargoje, Ghatanji and Mr. Suhas Laxman Gade, Sub Divisional Officer, Kelapur, as to why appropriate action should not be recommended against them and why should not they compensate the petitioners for the loss suffered by them having kept idle the JCB worth Rs.20 Lakh for all these days. Order accordingly.

8. Learned A.G.P. shall serve copy of the order upon the concerned officers who shall file reply to the show cause notice before the next date.

9. In the meantime, respondent No.3 shall forthwith release the JCB.

10. Stand over to 11.03.2025.

(Anil L. Pansare, J.)

Kahale