



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

WRIT PETITION NO. 233 OF 2025
(Sagar Subhash Bhoyar & Anr. V/s State of Maharashtra & Ors.)

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. M. I. Dhattrak, Advocate for Petitioners.
Mr. Sachin Zoting, Advocate for Sub Divisional Officer,
Kelapur.
Ms. K. P. Marpakwar, AGP for Respondent Nos.1 to 3
and 4.

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

On 11/2/2025 following order was passed :

“ *Heard.*

2. *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 V/s 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.”*

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

4. *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, much less 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 JCB 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 JCB 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.*

5. *Perusal of the 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.

6. 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.20.00 Lakh for all these days. Order accordingly.

7. 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.

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

9. Stand over to 11.03.2025.”

2. As could be seen, the Sub Divisional Officer was called upon to justify imposing penalty of Rs.7,50,000/- and further to show cause as to why appropriate action should not be recommended against him and further why should he not compensate the Petitioner for the loss suffered by keeping idle the JCB worth Rs.20,00,000/-. The learned AGP was requested to serve the copy of order upon the concerned officers, which she has done.

3. In response, Mr. Sachin Zoting, learned Counsel, appears for the Sub Divisional Officer and submits that he had prepared affidavit and forwarded it to the office of Government Pleader, but was not accepted, and therefore, the Sub Divisional Officer has requested him to appear on his behalf. He seeks time to file Vakalatnama and affidavit. Time granted.

4. The affidavit be filed within a week from today and serve the copy on the other side including the learned AGP.

5. The learned AGP submits that the affidavit of PSI concerned has been filed on record and copy has been served on the other side.

6. List the Petition in the week commencing from 7th April, 2025.

(ANIL L. PANSARE, J.)