



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Writ Petition No. 233 of 2025

[Sagar s/o Subhash Bhoyar and anr. **..vs..** State of Maharashtra through
Assistant Collector as well as Sub Divisional Officer, Kelapur,
Dist. Yavatmal 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. Dhattrak, Advocate for the petitioners
Mr. S. C. Joshi, AGP for the respondent nos. 1 to 3 and 4
Mr. S. D. Zoting, Advocate for respondent no. 5

CORAM : ANIL L. PANSARE J.

DATED : 16-07-2025

Heard.

2. On 11-2-2025, following order was passed.

"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.”

3. As could be seen, the police and revenue authorities have, without any justification, seized the vehicle/machine i.e JCB. The reason for seizure of JCB by police was that two tractors were being utilized to transport minor minerals viz. *murum* and stones. The report to that effect was submitted by the Police Sub Inspector (PSI) to the Tahsildar, Ghatanji. The report indicates that the JCB was found at spot but tractors were taken away. PSI found traces of *murum/stone*. The report further indicates that JCB was standing in the agricultural field belonging to one Mr. Raut. The other contents of the report is an hearsay information. Despite such status, PSI has seized the JCB.

4. In reply, PSI has stated that the JCB has been seized under Section 207 of the Motor Vehicles Act, which provides for detaining vehicle, if used without certificate of registration. It is nobody's case that the petitioner is not having such certificate. That being so, the action of seizure of JCB is apparently illegal.

5. What is more annoying is the role played by the Sub Divisional Officer (SDO). He has blindly believed the theory put forth by PSI and Tahsildar. He has conveniently ignored that the Tahsildar has not imposed penalty for the

transportation of alleged minor minerals. Thus, it is nobody's case that minor minerals was being transported without permission. That being so, there arises no question of JCB being used to transport minor minerals. Despite such status, SDO has imposed penalty of Rs. 7,50,000/-. Accordingly, show cause notice was issued why compensation should not be awarded to the petitioner. In response, PSI has tendered unconditional apology. SDO has, however, made an attempt to justify the order by saying that he is empowered to impose penalty under Section 48 of the Maharashtra Land Revenue Code, 1966.

6. The requirement/ingredients to invoke power under Section 48 is that the machine/equipment is used for unauthorised extraction, removal, collection etc. of the minor minerals. As stated earlier, the Tahsildar has not imposed penalty for extraction/removal/transportation of minor minerals. In that sense, it is not the case of respondents that the JCB has been utilized for extraction/removal/transportation of minor minerals. Despite such status, the SDO, by relying on Section 48, has made an attempt to justify imposition of penalty of Rs. 7,50,000/-. That apart, the SDO has referred the petitioner as accused in illegal excavation of *murum*. The SDO has, however, while concluding reply, tendered unconditional and unqualified apology.

7. When enquired, learned counsel appearing for SDO submits that neither police nor SDO has lodged First Information Report in the matter. Thus, the SDO has without any justification referred petitioner as accused and, despite noting illegalities in the show cause notice, made an attempt to justify order. Such conduct will only certify the correctness of finding rendered in order dated 11-2-2025 as regards casual, negligent and arbitrary manner of dealing with the case. The

reply so filed will further indicate that SDO, Kelapur is not willing to improve his working. Thus, there are reasons to believe that he will continue with such casual and arbitrary actions.

8. In the present case, such conduct resulted in severe losses to the petitioner for no fault of his. The JCB which is worth Rs. 20,00,000/-, was kept idle from 13-11-2024 till 11-2-2025 i.e. for 83 days.

9. Learned counsel for the petitioner submits that in normal working, the petitioner could have earned Rs. 4,000/- per day after excluding all other expenses, meaning thereby, that the petitioner has suffered a loss of about Rs. 3,32,000/- because of the casual and arbitrary act of PSI and SDO.

10. Learned counsel for SDO submits that such statement of earning without evidence cannot be relied upon. I do find substance in such submissions. Nonetheless, minimum earning per day should be Rs. 2000/-. Accordingly, for the purpose of compensation, the amount of loss is ascertained at Rs. 2,00,000/- out of which SDO Shri Suhas Laxman Gade shall pay Rs. 1,50,000/- to the petitioner and PSI Shri Shashikant Nagargoje shall pay Rs. 50,000/- within 15 working days. The amount shall be paid from their own pocket, through account payee cheque.

11. With the above observations, the petition is allowed in terms of prayer clause (a), which reads thus ;

“(a) issue appropriate writ, order or direction to quash and set aside the order impugned dated 27.12.2024 passed by respondent no. 1 – Assistant Collector as well as Sub Divisional Officer, Kelapur, district Yavatmal in Revenue Case No. 46/MNL-37/24-25 (Annexurfe-P11) and further be pleased to direct release of the vehicle of petitioner no.2 bearing registration No. MH-30AB/9496, in the interest of justice;”

12. Copy of order be served upon appointing authorities of PSI Shri Shashikant Nagargoje and SDO Shri Suhas Laxman Gade for information and appropriate action.

(Anil L. Pansare, J.)

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