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

WRIT PETITION NO.823/2025

Vijay Parasram Dhotre .Vs. The Additional Commissioner, Amravati Division, Amravati and Others

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

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Mr. Raju Kadu, Advocate for petitioners.
Ms P. S. Bawankule, A.G.P. for respondents.

CORAM : ANIL L. PANSARE, J.
DATE : FEBRUARY 14, 2025

Heard.

2. The petitioner is blamed with transportation of minor minerals viz. Murum without transit pass. The tipper belonging to him having registration No. MH-29/T-1670, was accordingly seized by Tahsildar and notice was issued to the petitioner to answer the charge. In response, the petitioner appeared before Tahsildar. Order dated 18.05.2023 passed by Tahsildar indicates that the petitioner admitted that his tipper has been seized while transporting two brass Murum and that he is ready to pay the penalty. Thus, in a way, the petitioner has admitted the charge of unauthorised transportation of Murum.

3. The said written submission filed by the petitioner is not annexed with the petition. The petitioner shall, therefore, place on record copy of said submission. Accordingly, Tahsildar imposed penalty for transportation of minor mineral without transport pass, which is to the tune of Rs.11,560/-.

4. The Tahsildar referred the matter to the Sub Divisional Officer for imposing penalty on the vehicle used for extracting minor mineral.

5. Sub Divisional Officer, vide order dated 15.06.2023, quashed and set aside the order of Tahsildar for the reason that calculation made by him were incorrect. The Sub Divisional Officer has considered the period of illegal transport of minor minerals from 16.04.2023 to 13.05.2024 and accordingly found that the total amount of Murum transported was 62 brass and not two brass as held by Tahsildar. Accordingly, the penalty was imposed on 62 brass which was raised to Rs.3,58,360/-. In addition, the penalty on vehicle used was also imposed which is to the tune of Rs.13,58,360/-.

6. The petitioner approached Additional Commissioner and prayed for interim relief, which came to be granted subject to the petitioner depositing 25% of that penalty.

7. It is contended that the Government of Maharashtra had issued Resolution dated 12.01.2018 and prescribed maximum penalty that could be imposed upon the use of vehicle for extracting minor minerals. He submits that the maximum penalty against the tractor/tipper as provided, is raised to Rs.2,00,000/- and, therefore, the order passed by Sub Divisional Officer is unsustainable.

7. Sub Divisional Officer, in the impugned order, has referred to said Government Resolution but has taken a view that since the tipper under question was used for the alleged transportation of Murum for 10 days, the penalty of Rs.1,00,000/- for each day should be imposed.

8. There are two questions that arise for consideration. One is whether the Sub Divisional Officer can go beyond what was referred by Tahsildar, in the sense the Tahsildar had referred the matter to Sub Divisional Officer for imposing penalty on the vehicle used for removal of Murum of two brass on a particular day viz. 13.05.2023. The Sub Divisional Officer has, however, upon verifying from previous ten e-Transport Passes, found that Murum did not

reach the destination mentioned in the transport pass for the period from 16.04.2023 to 13.05.2023. Secondly, whether it is permissible for the Sub Divisional Officer to impose penalty per day where same vehicle is used for removal of minor mineral.

9. Issue notice before admission to the respondents, returnable in two weeks. In the meantime, there shall be stay to the impugned order dated 04.12.2023.

10. Learned A.G.P. waives service of notice for the respondents – State.

11. In the facts and circumstances of the case and considering the finding of the Tahsildar imposing penalty of Rs.11,560/- and the Sub Divisional Officer's powers to impose maximum penalty of Rs.2,00,000/- in terms of Government Resolution dated 12.01.2018, respondent No.1 – Tahsildar, Pusad shall release the tipper bearing No. MH-29/T-1670, in favour of petitioner on execution of personal bond in terms of Section 48 (8) (2) of the Maharashtra Land Revenue Code, 1966 but subject to depositing Rs.1,50,000/- with Tahsildar, Pusad.

12. List in the week commencing from 27.02.2025.

(Anil L. Pansare, J.)

Kahale