

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4231 OF 2026

Akshay Babasaheb Borse,
Age : 24 years, Occu. Agri.,
R/o. Borse Vasti, Sukli,
Tq. Newasa, Dist. Ahilyanagar

..Petitioner

VERSUS

1. State of Maharashtra
Through Principle Secretary,
Revenue Department,
Mantralaya, Mumbai-32.
2. The Additional Collector,
Ahilyanagar, Dist. Ahilyanagar.
3. The Sub Divisional Officer,
Newasa-Nagar Division,
Dist. Ahilyanagar
4. The Tahsildar,
Newasa, Tq. Newasa,
Dist. Ahilyanagar
5. The Circle Officer,
Kukana, Tq. Newasa,
Dist. Ahilyanagar.

..Respondents

...
Advocate for the Petitioner : Mr. D.R. Kale h/f Mr. P.N. Shejul
AGP for Respondent/State : Ms. R.R. Tandale
...

CORAM : S. G. CHAPALGAONKAR, J.

DATED : MAY 06, 2026

FINAL ORDER :-

1. Present petition takes exception to order dated
02.07.2025 passed by respondent no.4/Tahsildar under section 48 (7)

(8) of Maharashtra Land Revenue Code, thereby imposing penalty of Rs.7,50,000/- against petitioner.

2. The petitioner owns JCB Machine No.MH-17-DJ-7111. While machine was operated for levelling of petitioner's land, respondent no.5/Circle Officer along with Talathi drawn Panchnama alleging illegal excavation of earth material. Eventually machine was seized and put at police station. Respondent no.4/Tahsildar on report submitted by respondent no.5 issued a notice dated 25.04.2025 calling upon petitioner to show cause as to why penalty of Rs.7,50,000/- shall not be imposed upon him for use of JCB machine for unauthorized excavation of minor minerals. The petitioner replied said show cause notice, however, respondent no.4/Tahsildar without considering defence of petitioner passed final order dated 02.07.2025. Aggrieved petitioner filed R.T.S. Appeal No. 367 of 2025 before Sub Divisional Officer, Newasa assailing order of Tahsildar. However, on 17.10.2025 respondent no.2 rejected appeal. The petitioner filed Second R.T.S. Appeal No. 544 of 2025 before Additional Collector, who confirmed orders passed by respondent nos.3 and 4. Hence, this writ petition.

3. Mr. Kale, learned advocate for petitioner submits that Tahsildar does not possess power to seize vehicle or impose penalty in terms of section 48 of Maharashtra Land Revenue Code. In present case, petitioner's JCB machine was illegally possessed by respondent

authorities. It was never produced before competent authorities i.e. Collector or Sub Divisional Officer. The Tahsildar proceeded to pass order imposing penalty without jurisdiction. The Appellate Authorities ignored well settled legal position and confirmed order of Tahsildar, which was without jurisdiction. The petitioner's vehicle is taken in possession on 24.04.2025, and put into custody of Police Authorities. Although petitioner represented about his innocence, Tahsildar issued show cause notice and finally passed impugned order.

4. The learned AGP on the basis of affidavit in reply tendered by Mr. Sanjay Pundlikrao Biradar/Tahsildar submitted that Circle Officer had received information about illegal excavation of minor minerals from land Gat No. 256/3 owned by Mr. Ravindra Vitthal Unde. Accordingly, he personally visited spot, drawn panchama taking note of illegal excavation using JCB machine. On 24.04.2025, he reported Tahsildar. Accordingly, show cause notice was given and order has been passed imposing penalty of Rs.7,50,000/-.

5. Having considered submissions advanced by learned advocates appearing for respective parties, issue arises for consideration in this petition is, as to whether Tahsildar is empowered to seize vehicle used for excavating minor minerals without lawful authority.

6. Section 48 of Maharashtra Land Revenue Code deals with government title to mines and minerals. Clause (7) of Section 48 provides that if person without lawful authority extracts, removes, collects, replaces, picks up or disposes of any mineral, right to which vests in, and has not been assigned by the State Government, would be liable to pay penalty upto five times of market value of minerals. Sub-section (8) provides for power of Collector or authorized person to confiscate and seize any machinery and equipment used for unauthorized extraction, removal and transport. Sub-clause (2) of Sub-section (8) specifies that machinery or equipment or means of transport, used for unauthorized extraction, removal or transportation of minor minerals which is seized under sub-section (1) shall be produced before the Collector or Deputy Collector, authorized by the Collector in this behalf, within a period of 48 hours of such seizure, who may release such seized machinery, equipment or means of transport on payment by the owner thereof of such penalty as may be prescribed.

7. The aforesaid scheme of the Code nowhere stipulates that Tahsildar has power to seize vehicle or equipment or impose penalty for the same. Sub-clause (2) of sub-section (8) of Section 48 clearly stipulates that power to impose penalty vests with Collector or Sub-Divisional Officer on presentation of seized vehicle before him within 48 hours. The aforesaid legal position has been reiterated by this

Court in case of **Shahaji Uttam Rakibe Vs. The State of Maharashtra and Others (Writ Petition No.8915 of 2024)**, **Damodar Nivrutti Parge Vs. The State of Maharashtra and Others (Writ Petition No.1441 of 2024)** and **Deepak Logistics and Forwarders and Another Vs. The State of Maharashtra and Others (Writ Petition No.1273 of 2018)**.

8. In present case, it is discernible that action of seizure of vehicle is taken by respondent nos.4 and 5. The respondent no. 4 without authority under law, issued show cause notice and imposed penalty under section 48(8) ignoring requirements of sub-clause (2) of sub-section (8) of Section 48. The vehicle was seized and kept in police station. It was never produced before Sub Divisional Officer for further action. The respondent no.4 illegally assumed power of Deputy Collector, issued show cause notice and passed order imposing penalty of Rs.7,50,000/-. The petitioner's vehicle is illegally detained since 23.04.2025 under pretext of use for illegal extraction of minor minerals and further order dated 02.07.2025 imposing penalty passed by respondent no.4/Tahsildar.

9. In result, this Court holds that writ petition deserves to be allowed and same is allowed in terms of prayer clause (B) and (C).

10. Respondents are directed to forthwith release petitioner's vehicle.

11. The show cause notice be issued to respondent nos.4 and 5 as to why Exgracia compensation of Rs. 1,00,000/- (Rupees one lakh) shall not be awarded to petitioner personally from their pocket.

12. The respondent nos.2 and 3 shall cause enquiry into the matter to fix responsibility of illegal detention of vehicle, and submit report to this Court within six weeks from today.

(S.G. CHAPALGAONKAR, J.)