



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

WRIT PETITION NO. 6902 OF 2024

with

WRIT PETITION NO. 6903 OF 2024

with

WRIT PETITION NO. 6904 OF 2024

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WRIT PETITION NO. 6902 OF 2024

Rajesh S/o Marotrao Adkine,
Aged about 46 years, Occu. Business,
R/o at Warodi, Post Tembhi,
Tah. Mahagaon, Dist. Yavatmal

...PETITIONER

...VERSUS...

1. State of Maharashtra,
Through the Secretary, Revenue
and Forest Department, Mantralaya,
Mumbai-32.
2. The Sub Divisional Officer,
Sub Divisional Office, Umarmkhed,
District Yavatmal.
3. The Additional Collector,
Yavatmal, Dist. Yavatmal.
4. Police Station Officer,
Police Station, Mahagaon,
District Yavatmal.

...RESPONDENTS

WITH

WRIT PETITION NO. 6903 OF 2024

Sachin S/o Vishnuji Dukre,
Aged about 44 years, Occu. Business,
R/o at Kinhiwalgi, Post Bori Arab,
Taluka Darwha, Dist. Yavatmal

...PETITIONER

...VERSUS...

1. State of Maharashtra,
Through the Secretary, Revenue
and Forest Department, Mantralaya,
Mumbai-32.
2. The Sub Divisional Officer,
Sub Divisional Office, Umarkhed,
District Yavatmal.
3. The Additional Collector,
Yavatmal, Dist. Yavatmal.
4. Police Station Officer,
Police Station, Mahagaon,
District Yavatmal.

...RESPONDENTS

WITH
WRIT PETITION NO. 6904 OF 2024

Umesh S/o Dadarao Bhoyar,
Aged about 44 years, Occ: Business,
R/o At Hatni, Post Khopdi Bu.
Tah. Darwaha, Dist. Yavatmal

...PETITIONER

...VERSUS...

1. State of Maharashtra,
Through the Secretary, Revenue
and Forest Department, Mantralaya,
Mumbai-32.
2. The Sub Divisional Officer,
Sub Divisional Office, Umarkhed,
District Yavatmal.
3. The Additional Collector,
Yavatmal, Dist. Yavatmal.
4. Police Station Officer,
Police Station, Mahagaon,
District Yavatmal.

...RESPONDENTS

Mr. T. H. Bewali, Advocate for petitioners.
Mr. S. B. Bissa, AGP for respondents in WP 6902/2024.
Mr. N. S. Autkar, A.G.P. for respondents in WP 6903/24
Mr. N. R. Rode, A.G.P. for respondents in WP 6904/24

CORAM:- M.W. CHANDWANI, J.

Date of reserving for Judgment : JANUARY 08, 2026

Date of pronouncement of Judgment: JANUARY 23, 2026

JUDGMENT:

1. **Rule.** Rule made returnable forthwith. Heard finally by consent of the learned counsels appearing for the parties.

2. Since, a common question has been raised in all these petitions, they are being disposed of by this common order.

3. These petitions raise a common question that when a vehicle seized by the police is released under the orders of the Judicial Magistrate, First Class, whether the Sub Divisional Officer/Deputy Collector can impose the penalty for releasing the vehicle under Section 48(8)(2) of the Maharashtra Land Revenue Code, 1966 (for short “the M.L.R. Code”) after the vehicle is released.

4. On 04.04.2024, the senior officers of Police Department

and Revenue Department, Mahagaon, Dist. Yavatmal together conducted a raid at the sand ghat on the banks of Painganga river situated at mouza Bhosa and seized several vehicles including three JCB machines belonging to the petitioners. These vehicles and machines were used for illegal excavation of sand without valid royalty pass. The matter was reported to Police Station, Mahagaon on 05.04.2024 and FIR Crime No. 274/2024 for the offences punishable under Section 379 read with Section 34 of the Indian Penal Code, 1860, Sections 48(7) and 48(8) of the M.L.R. Code and Sections 15 and 9 of the Environment Protection Act, 1986 came to be registered. The seized vehicles and JCB Machines were handed over to Police Station, Mahagaon.

5. The petitioners in these petitions who are the owners of the JCB Machines, applied before the learned Judicial Magistrate, First Class, Mahagaon (for short “the Magistrate”) under Section 457 of the Code of Criminal Procedure, 1973 for releasing the JCB machines on Supratnama. The learned Magistrate, by order dated 24.04.2024, allowed the applications and directed the Investigating Officer to handover the JCB Machines to the petitioners on supratnama without prejudice to the power of the Tahsildar to proceed under the provisions of the M.L.R. Code and

the Mines and Minerals Act, 1957.

6. The Tahsildar, Mahagaon vide letter dated 10.04.2024 reported the matter to the Sub Divisional Officer, Umarkhed (for short “the S.D.O.”). Consequently, the S.D.O. vide order dated 29.04.2024 (for short “the impugned order”) imposed penalty of Rs.7,50,000/- on each of the petitioner under Section 48(8)(2)(1) of the MLR Code for using the JCB Machines for illegal excavation of sand. The impugned order was challenged by the petitioners before the Additional District Collector, Yavatmal, who dismissed the appeal by order dated 19.07.2024. Therefore, the petitioners are before this Court.

7. Mr. Bewali, learned counsel appearing for the petitioners submitted that after seizure of the JCB vehicles, they were handed over to the police and were not produced before the S.D.O. or the Deputy Collector within 48 hours of seizure. Therefore, imposition of penalty by the Deputy Collector/ S.D.O. is without jurisdiction. It is also contended that the JCB Machines are already released on supratnama. Therefore, the S.D.O. should not have passed the order imposing penalty for releasing the vehicles.

8. Learned A.G.P. appearing on behalf of the respondents objected the petitions on the ground that the machines have been seized under the dictum of the learned Magistrate. Further, the order passed by the learned Magistrate clearly depicts that it is without prejudice to the power of the Tahsildar to proceed under the provisions of the M.L.R. Code. Accordingly, the Tahsildar proceeded under the provisions of the M.L.R. Code and the penalty has been imposed by the S.D.O. The learned AGP submitted that the order passed by the S.D.O. is completely justified and hence, he sought rejection of the petitions.

9. Considering the controversy involved in these petitions, it is necessary to reproduce Section 48(8)(1) & (2) of the M.L.R. Code, which read as under :

“48. Government Title to Mines and Minerals :-

(1) to (7)

*(8) (1) Without prejudice to the provision of sub-section (7), the Collector or any revenue officer [***] authorised by the Collector in this behalf, may seize and confiscate any mineral extracted, removed, collected, replaced, picked up or disposed of from any mine, quarry or other place referred to in sub-section (7), the right to which vests in, and has not been assigned by the State Government, and may also seize and confiscate any machinery and equipment used for unauthorised extraction, removal, collection, replacement, picking up or disposal of minor minerals and any means of transport deployed to transport the same.*

(2) Such machinery or equipment or means of transport, used for unauthorized extraction, removal, collection, replacement, picking up or disposal of minor minerals or transportation thereof, which is seized under sub-section (1), shall be produced

before the Collector or such other officer not below the rank of Deputy Collector authorised by the Collector in this behalf, within a period of forty-eight 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 and also on furnishing personal bond of an amount not exceeding the market value of or the seized machinery, equipment or means of transport, stating therein that such seized machinery, equipment or means of transport shall not be used in future for unauthorised extraction, removal, collection, replacement, picking up or disposal of minor minerals and transportation of the same.”

10. Thus, perusal of Section 48(8)(2) of the M.L.R. Code reveals that the vehicles used in illegal excavation of minor minerals are liable to be confiscated and can be released by the Collector or such other officer not below the rank of Deputy Collector authorized by the Collector in this behalf, on imposing penalty as contemplated under the Rules.

11. In the present case, on the date of imposition of penalty by the S.D.O. in all three petitions, the vehicles were already released under the directions of the learned Magistrate. The wording of the Section depicts that if somebody applies for releasing of the vehicle, then the vehicle can be released by the Collector or any such officer not below the rank of Deputy Collector authorized by the Collector by imposing penalty.

12. In all these petitions, no such application was filed by the petitioners before the S.D.O. for releasing the JCB Machines, since the JCB Machines were already released by the Magistrate. Therefore, the question of imposing penalty which was to be imposed at the time of release of the vehicle, does not arise. The S.D.O. should not have imposed the penalty when the JCB Machines were already released.

13. The Collector or an officer authorized by the Collector not below the rank of a Deputy Collector may seize and confiscate any machinery, equipment or means of transport used for unauthorized excavation of minor minerals or such machinery is produced before the Collector/authorised officer within 48 hours of seizure. A distinction has to be made between 'releasing the vehicle' and 'confiscating the vehicle'.

14. In these petitions, the power of the authority in respect of confiscation has not been challenged. The challenge is only to the penalty imposed by the authority after release of the vehicles by the Magistrate, which was infact to be imposed before release of the vehicle. Therefore, I find substance in the argument of the

learned counsel for the petitioners that the orders passed by the S.D.O. imposing penalty for releasing the JCB machines do not stand and are required to be set aside.

15. Accordingly, the Writ Petitions are allowed.

16. i] **Writ Petition No. 6902 of 2024** – The order dated 19.07.2024 passed by respondent no.3 – Additional Collector, Yavatmal in Revenue Appeal No. 46/MNL-37/2023-24 as well as the order dated 29.04.2024 passed by respondent no.2 – Sub Divisional Officer, Umarkhed in Revenue Case No. RMK-32/MNL-37/2023-24 are quashed and set aside.

ii] **Writ Petition No. 6903 of 2024** – The order dated 19.07.2024 passed by respondent no.3 – Additional Collector, Yavatmal in Revenue Appeal No. 47/MNL-37/2023-24 as well as the order dated 29.04.2024 passed by respondent no.2 – Sub Divisional Officer, Umarkhed in Revenue Case No. RMK-7/MNL/37/2023-24 are quashed and set aside.

iii] **Writ Petition No. 6904 of 2024** – The order dated 19.07.2024 passed by respondent no.3 – Additional Collector, Yavatmal in Revenue Appeal No. 48/MNL-37/2023-24 as well as the order dated 29.04.2024 passed by respondent no.2 – Sub

Divisional Officer, Umarkhed in Revenue Case No. RMK-6/MNL/37/2023-24 are quashed and set aside.

17. The amount deposited by the petitioners under the dictum of this Court be returned to them.

18. Needless to mention, as observed by the learned Magistrate, the authority may proceed against the petitioners pursuant to the provisions of the Maharashtra Land Revenue Code, 1966.

19. The writ petitions stand disposed of in the aforesaid terms.

(M.W.Chandwani,J.)

Diwale