



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

WRIT PETITION NO.5365 OF 2025

Shri Kailas Rajaram Kharade,
Aged about 50 yrs, Occ. Business,
R/o. At Post Chikhli,
District Buldhana.

....PETITIONER

...V E R S U S...

1. The State of Maharashtra,
through its secretary,
Revenue and Forest Department,
Mantralaya, Mumbai 32
2. The Divisional Commissioner,
Amravati Division, Amravati
3. The Additional Collector,
Buldhana, District Buldhana,
4. The Sub Divisional Officer,
Sindhkhedraja, Tah. Deulgaon Raja,
Dist. Buldhana
5. The Tahsildar, Deulgaon Raja,
Dist. Buldhana 443 204
6. Police Station Officer,
Police Station, Andhera,
Tah Deulgaon Raja,
Dist Buldhana.

...RESPONDENTS

Mr. Raju Kadu, Advocate for petitioner.
Ms. D.V. Sapkal, Assistant Government Pleader for respondent
Nos. 1 to 6/State.

CORAM:- M.W. CHANDWANI, J.

DATE :- 06.01.2026

ORAL JUDGMENT:

Rule. Rule made returnable forthwith. Heard finally with the consent of the parties.

2. The petition challenges the impugned order dated 18.07.2025 passed by the respondent no. 3- Additional Collector, Buldhana thereby maintaining the order passed by the respondent no. 4- Sub Divisional Officer, Sindhkhedraja imposing a penalty of Rs. 7,50,000/- for release of the JCB machine.

3. According to the petitioner, on 6.5.2024 the respondent no. 5- Tahsildar, Deulgaonraja seized one JCB machine from the banks of the Khadakpurna river alleging that it was being used for illegal excavation of sand, a minor mineral. Thereafter, respondent no. 5- issued a show cause notice to the petitioner. On receipt of reply from the petitioner, the matter was referred to the respondent no. 4- Sub Divisional Officer ("SDO"), Sindkhedraja.

4. The learned SDO, Sindkhedraja opined that the JCB machine was used for illegal excavation of sand and therefore, he imposed a penalty of Rs. 7,50,000/- under Section 48(8) of the Maharashtra Land Revenue Code, 1966 ("MLR Code") for release of the JCB machine. The petitioner thereafter challenged the said order before the respondent no. 2- Additional Commissioner by filing appeal. Vide order dated 16.05.2025, the appeal was

allowed and the matter was remanded back to the Additional Collector, Buldhana for deciding it afresh. The learned Additional Collector passed the similar order dated 18.07.2025 of imposing penalty on the petitioner for release of the JCB machine.

5. The contention is that, there is nothing on record to suggest that excavation of sand was carried out illegally with the help of the said JCB machine. No other vehicle was found on the spot where the sand was being loaded. According to the petitioner, this aspect has not been considered by both the authorities and just because the JCB machine was found on the banks of the river, the penalty was imposed on conjectures and surmises that the said JCB was being used for excavation of sand.

6. Per contra, the learned AGP supported the impugned order and submitted that the learned SDO is empowered to impose penalty under Section 48(8) of the MLR Code and therefore, the impugned order is proper. According to her, the panchanama prepared on the spot demonstrates the use of the JCB machine for excavating the sand.

7. With the help of the learned counsel for the petitioner and the learned AGP, I have gone through the case record including the panchanama. Bare perusal of the panchanama

reveals that one JCB was found on the banks of the Khadakpurna river. The panchanama further reveals that the JCB machine was found on the spot and accordingly, it was seized. Thus, nowhere in the panchanama has it been mentioned that when the Tahsildar along with panchas reached the spot, excavation of sand with the help of the JCB machine was being carried out.

8. That apart, there is nothing on record to suggest that any other vehicle was found near the JCB machine in which the sand was being loaded with the help of JCB. In the absence of these material aspects, it cannot be said that the JCB was being used for the purpose of excavating sand, a minor mineral.

9. The learned SDO as well as the learned Additional Collector have not considered this vital aspect of the matter which resulted into passing of the impugned order imposing penalty of Rs. 7,50,000/- for releasing the vehicle on the proposition that the said vehicle was used for excavation of sand. Presence of JCB machine near the banks of the river does not necessarily suggest that the said vehicle was being used for excavating sand. Therefore, impugned order does not stand to the reason and is required to be set aside.

10. The impugned orders passed by the learned Sub Divisional Officer, Sindkhedraja in the case bearing no. रा.प्र. क्र. एम.एन.एल ३७/डिग्रस बु/५२/२०२३-२४, dated 14.05.2024 as well as the learned Additional Collector, Buldhana in the case bearing no. रा.प्र.क्र. एम.एन.एल ३७/डिग्रस बु/३० (फेरचौकशी) /२०२४-२५, dated 18.07.2025 are hereby set aside. The authorities are directed to hand over the JCB machine forthwith to its owner/petitioner, if it is not required in any other case.
11. Rule is made absolute in the aforesaid terms. No order as to costs.

(M.W. CHANDWANI, J.)

Belkhede PS