



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

WRIT PETITION NO. 5932 OF 2025

Mangesh alias Mahendra S/o.
Gangadharrao Kathiwale,
Age : 44 Years, Occu. : Business,
R/o. Warud, Tq. Warud,
Dist. Amravati.

.... Petitioner

VERSUS

1. The State of Maharashtra
Through its Chief Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai – 42.
2. Additional Collector, Amravati,
Tq. & Dist. Amravati.
3. The Sub-Divisional Officer,
Achalpur, Dist. Amravati.
4. The Tahsildar, Chandur Bazar,
Tq. Chadurbazar, Dist. Amravati.
5. The Police Station Chadur Bazar,
Through its P.I., Tq. Chandur Bazar,
Dist. Amravati.

.... Respondents

Advocate for Petitioner : Mr. R.A. Bagde.
AGP for Respondents-State : Mr. H.R. Dhumale.

....

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE ON WHICH ARGUMENTS WERE HEARD : 23rd FEBRUARY 2026

DATE ON WHICH JUDGMENT IS PRONOUNCED : 06th APRIL 2026

JUDGMENT :

1. Heard.
2. **Rule.** Rule is made returnable forthwith and by consent of learned Advocates appearing for the parties, the petition is taken up for final disposal.
3. By this petition, the petitioner has challenged an order dated 18.08.2025, passed by respondent No.2 Additional Collector, Amravati, thereby upholding the order dated 02.06.2025, passed by respondent No.3 Sub Divisional Officer, Achalpur, Dist. Amravati, as well as show cause notice dated 29.04.2025 and consequential order dated 09.05.2025, passed by respondent No.4 Tahsildar, Chandur Bazar, under Sections 48(7) and 48(8) of the Maharashtra Land Revenue Code, 1966 (for short, "MLR Code"), imposing penalty upon the petitioner.
4. The petitioner is owner of a vehicle i.e. Truck bearing No. MH-27-DT-0727, which came to be seized for illegal transportation of sand. In that regard, a show cause notice dated 29.04.2025 was issued by respondent No.4 Tahsildar, Chandur Bazar, alleging illegal

transportation of sand by the petitioner and in the further proceedings, the revenue authorities passed orders under Sections 48(7) and 48(8) of the MLR Code, imposing total penalty of Rs.4,70,600/-. The petitioner has raised challenge to the show cause notice dated 29.04.2025 as well as the order dated 09.05.2025 passed by respondent No.4 Tahsildar, Chandur Bazar, order dated 02.06.2025 passed by respondent No.3 Sub Divisional Officer, Achalpur and order dated 18.08.2025 passed by respondent No.2 Additional Collector, Amravati, upholding the orders of penalty.

5. Mr. R.A. Bagde, learned Advocate for the petitioner primarily submitted that the entire action of seizure of the petitioner's vehicle and imposition of penalty is illegal since the petitioner's truck was seized by the police department, who is not authorized under Section 48 of the MLR Code. By inviting attention to the document of seizure recording the name of Police Station Chandur Bazar as the person from whom the vehicle was seized, it is submitted that this document establishes that the seizure was by police department and hence, the entire action is rendered illegal. In support of his submissions, he has placed reliance on judgment of the Division Bench of this Court in the case of ***Gufran Khan Rahmatullah Khan Vs. State of Maharashtra and Others, Decided on 13th March 2019, in Writ Petition No.8424 of 2018*** and submitted that the action of

seizure by police department is without jurisdiction and hence, further consequent orders by the revenue authorities are also without jurisdiction.

6. Per contra, Mr. H.R. Dhumale, Learned AGP for the respondents-State raised an objection to maintainability of petition on account of alternate remedy and placed reliance on judgment of this Court in the case of *Javed Aalam Misbauddin Siddiqui Vs. The Divisional Commissioner, Nagpur Division, Nagpur and Others, Decided on 10th October 2023, in Writ Petition No.3828 of 2023.*

7. To controvert this objection about maintainability of petition, learned Advocate for the petitioner submitted that the show cause notice and the entire action of imposition of penalty being based on seizure of the vehicle by police department is without jurisdiction and therefore, the objection about availability of alternate remedy is unsustainable. In support of his submissions, he placed reliance on judgment of the Division Bench of the Principal Seat of this Court in the case of *CEAT Speciality Tyres Limited Vs. State Bank of Maharashtra and Another, Decided on 22.01.2020, in Writ Petition No.12206 of 2018* and submitted that where the show cause notice or order of penalty is without jurisdiction, the existence of alternate remedy would not disentitle the petitioner to file a writ remedy.

8. As regards the merits of the matter, Mr. H.R. Dhumale, learned AGP for the respondents-State vehemently opposed the petition and submitted that the petitioner's truck bearing No. MH-27-DT-0727, was illegally transporting 11 brass sand and was intercepted in that condition on 28.04.2025. By inviting attention to the representation/letter dated 05.05.2025, which was submitted by the petitioner to respondent No.4 Tahsildar, Chandur Bazar, he pointed out that the petitioner has himself mentioned therein that his vehicle was stopped by certain anti social elements and therefore, he himself has sought police protection and deposited the vehicle in the police station. In view of this, he submitted that there is no seizure of vehicle by the police department. He submitted that the reference to Police Station Chadur Bazar in the document of seizure does not at all mean that the vehicle was seized by the police. He submitted that since the vehicle was parked by the petitioner in the police station, the same was handed over to the revenue authorities by the police and as such, there is no seizure of vehicle by the police department. He, therefore, submitted that the judgment in the matter of **Gufran Khan (Supra)** is not applicable in the instant case.

9. While considering the issue of maintainability of the petition on account of alternate remedy, the position of law as laid

down in **CEAT Speciality Tyres Limited (Supra)** needs to be considered. As regards the contentions on merits, it has to be noted that the Spot *Panchnama* dated 29.04.2025 mentions that the vehicle was seized by the police authorities and even in the impugned order dated 09.05.2025, passed by respondent No.4 Tahsildar, Chandur Bazar, this fact is mentioned. As such, the contentions of the petitioner that the vehicle was seized by the police is not without any basis. Further, a careful perusal of *Panchnama* dated 29.04.2025 reveals discrepancies about time of seizure of vehicle being 01.15 noon or night time about which there is no plausible explanation.

10. It has to be noted that the respondents have recorded findings about the petitioner's vehicle being used for illegal transportation of sand. The orders passed by the Tahsildar, Sub Divisional Officer as well as Additional Collector are based on the *Panchnama* dated 29.04.2025. Apart from the discrepancies about time in the *Panchnama*, it has to be noted that the *Panchnama* mentions 11 brass sand, but the capacity of the said vehicle does not appear sufficient to carry 11 brass material, as can be seen from the e-Transit pass. Further, the e-Transit pass appears to be valid till 28.04.2025 at 08.46 p.m. and the alleged seizure is at 01.15 noon on that day.

11. A perusal of record indicates that the action is initiated since the petitioner's vehicle was found carrying 11 brass sand illegally and the vehicle was seized on that count. It also appears that a notice was issued and an opportunity of hearing was afforded to the petitioner, who appeared before the authorities and by following due procedure, the orders are passed under Section 48(7) and 48(8) of the MLR Code. It has to be seen that the authorities have imposed total penalty of Rs.4,70,600/-, on account of illegal transportation of sand by invoking powers under Sections 48(7) and 48(8) of the MLR Code. However, in view of the discrepancies referred above, it is clear that the impugned orders are not passed by considering these vital issues. In view of these crucial aspects, the objection about alternate remedy need not be entertained, rather the authorities are required to reconsider the matter. Therefore, the matter needs to be remanded to respondent Nos.3 and 4, for considering the entire controversy afresh.

12. In the wake of reference of seizure of the vehicle by the police at several documents, including the *Panchnama* dated 29.04.2025 and the impugned orders, the arguments advanced by learned AGP that the petitioner has admitted that the vehicle was not seized by the police in view of representation/letter dated 05.05.2025, cannot be accepted. There is no convincing reason as to why at several places in the Spot *Panchnama*, the seizure is shown to

be made by the police authorities. As such, although learned Advocate for the petitioner failed to articulate the submissions, but I find the submissions not worth rejecting completely.

13. Having given my anxious consideration to the rival contentions, the writ petition is partly allowed and the impugned orders are quashed and set-aside and the matter is remanded to respondent Nos.3 and 4, for deciding the same afresh after giving due opportunity of hearing to the parties concerned.

14. It has to be observed that since the petitioner's vehicle i.e. Truck bearing No. MH-27-DT-0727, was seized on 28.04.2025 and it is lying idle, hence, during pendency of the proceedings, the same may be released subject to the petitioner furnishing surety of the amount of penalty, before respondent No.4 Tahsildar, Chandur Bazar.

15. The writ petition is disposed of in above terms. No order as to costs. Rule is made absolute accordingly.

[PRAFULLA S. KHUBALKAR]
JUDGE

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