



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 6242 OF 2025

Ayub Jumma Reghiwale, Age: 40 years, Occ: Business,
R/o Ward no.3, Indira Nagar, Dongaon, Tahsil-Mehkar,
District Buldana.

PETITIONER

VERSUS

1. State of Maharashtra, Through the Secretary,
Revenue and Forest Department, Mantralaya, Mumbai.
2. The Police Station Officer, Police Station Dongaon,
Tahsil Mehkar, District Buldana.
3. The Tahsildar, Tahsil Office Mehkar, District Buldana.
4. The Sub-Divisional Officer, Sub-Division Office,
Mehkar, District Buldana.

RESPONDENTS

Shri T.H. Bewali, counsel for the petitioner.
Smt. K.H. Bhongade, Assistant Government Pleader for the respondents.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : FEBRUARY 26, 2026

ORAL JUDGMENT

RULE. Rule made returnable forthwith. Heard finally with consent of the learned counsel for the parties.

2. The controversy involved in the instant petition arises out of the action initiated by the respondents under Sections 48(7) and 48(8) of the Maharashtra Land Revenue Code, 1966 (for short, 'the Code').

3. The petitioner claims to be owner of vehicle i.e. JCB machine bearing registration no.MH-28-AZ-3452 with respect to which the Tehsildar and the Sub-Divisional Officer initiated proceedings alleging illegal excavation of sand. The petitioner's vehicle was seized by the police authorities and it was released on Suprutnama by the Judicial

Magistrate (First Class), Mehkar by order dated 03.07.2025. The said vehicle was earlier seized by the police authorities for alleged offence under Section 303(2) of Bharatiya Nyaya Sanhita, 2023 and Sections 21(1) and 21(2) of Mines and Minerals (Development and Regulation) Act, 1957 on the complaint of Executive Engineer, Maharashtra State Road Development Corporation *vide* crime no.14 of 2025. On 26.06.2025, the Tahsildar, Mehkar passed an order imposing penalty of Rs.15,60,100/- on the petitioner under Section 48(7) of the Code. Pertinently, the Sub-Divisional Officer, Mehkar has also passed an order dated 17.07.2025 and imposed penalty of Rs.7,50,000/- under Sections 48(7) and 48(8) of the Code against the petitioner. Feeling aggrieved by the orders passed by the Tahsildar and the Sub-Divisional Officer, the instant petition is filed.

4. The learner counsel for the petitioner submitted that the impugned orders are passed for totally unsustainable reasons and the petitioner cannot be subjected to penalty for alleged use of JCB for excavation in absence of any case about alleged transportation of sand. He submitted that the impugned action is grossly illegal and the impugned orders imposing penalty are passed without any conclusive material against the petitioner. He invited attention to various discrepancies in the impugned orders with respect to the dates and the material i.e. sand and Muroom and vehemently submitted that the entire action of seizure of JCB by the police authorities is without jurisdiction under Sections 48(7) and 48(8) of the Code. In support of his submissions he relied on the judgment of

the Division Bench of this Court in ***Gufran Khan Rahmatullah Khan Versus State of Maharashtra & Others*** [Writ Petition No.8424 of 2018], dated 13.03.2019 and by pointing out the legal position he submitted that the action of seizure of JCB by the police authorities being without jurisdiction, further action of imposing penalty by the Tahsildar and the Sub-Divisional Officer is also illegal and unsustainable in law.

5. Smt. K.H. Bhondge, learned Assistant Government Pleader for the respondents supported the impugned orders and submitted that the police authorities have found the JCB being used for illegal excavation of sand and by calculating the penalty, appropriate orders are passed. The respondents however does not dispute the fact of release of JCB by the Court of Judicial Magistrate (First Class), Mehkar by order dated 03.07.2025 and even the fact that the JCB was seized by the police authorities.

6. In the backdrop of these submissions, while considering the rival controversy, it has to be noted that undisputedly the JCB in question is already released on suprutnama and the only issue is about sustainability of the orders imposing penalty. The order passed by the Sub-Divisional Officer shows that it records that JCB bearing no.MH-28-AZ-3452 was found plying on the road on 02.07.2025 with 100 brass of Muroom and the said order also mentions that the JCB was carrying 100 brass of sand. There is clear discrepancy in the impugned order which mentions at one place '100 brass of Muroom' and at another place '100 brass of sand'. Further, it is specifically mentioned that the JCB was found plying on the

road on 02.07.2025 which is clearly erroneous in view of the fact that the JCB itself was released by the order of the Judicial Magistrate (First Class), Mehkar on 03.07.2025. On this discrepancy, the learned Assistant Government Pleader states that these are typographical mistakes. In support of his contention that the JCB was seized by the police authorities, the counsel for the petitioner has pointed out the observations in the impugned order and the same are also not disputed by the learned Assistant Government Pleader and therefore it becomes clear that the seizure of the JCB was by the police authorities and not by the Tahsildar. The contention of the petitioner that the seizure is not under section 48(8) has substance. The reliance placed by the counsel for the petitioner on the judgment in ***Gufran Khan Rahmatullah Khan*** (supra) thus become relevant wherein it is held that the action of seizure of the vehicle by the police authorities is without authority and hence all further actions based on such seizure are also rendered without jurisdiction.

7. In view of the vital discrepancies in the impugned orders as referred above with respect to the date mentioned as 02.07.2025 and reference to muroom and sand at several places the entire action of seizure of vehicle by police authorities is found to be illegal. In view of this, considering the undisputed fact of the seizure of the JCB by the police authorities, in my opinion the matter is covered by the judgment of the Division Bench in ***Gufran Khan Rahmatullah Khan*** (supra) and the impugned orders imposing penalty are therefore unsustainable in law.

8. It has also to be noted that an offence bearing Crime no.14 of 2025 is registered at Police Station, Dongaon and investigation and criminal case pursuant thereto is not subject matter of this petition. It is therefore made clear that the authorities are empowered to take appropriate action based on the investigation in the offence.

9. Having regard to the controversy involved in this case, for the above mentioned factual and legal aspects, the writ petition needs to be allowed and hence the following order is passed:-

- I. The writ petition is allowed.
 - II. The order dated 26.06.2025 passed by the Tahsildar, Mehkar and the order dated 17.07.2025 passed by the Sub-Divisional Officer, Mehkar are quashed and set aside.
10. Rule is made absolute in aforesaid terms with no order as to costs.

(PRAFULLA S. KHUBALKAR, J.)