



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

WRIT PETITION NO. 8171 OF 2025

Buddhu Jumma Gawli, Aged 45 yrs, Occ-Agriculture,
R/o Dongaon, Tahsil Mehkar, District Buldana.

PETITIONER

VERSUS

1. State of Maharashtra, Through its Secretary,
Revenue and Forest Department, Mantralaya, Mumbai.
2. The Additional Commissioner, Amravati.
3. Sub-Divisional Officer, Mehkar, District Buldana.
4. The Tahsildar, Tahsil Office, Mehkar,
District Buldana.

RESPONDENTS

Shri Harleen T.Bewali with Shri T.H. Bewali, counsel for the petitioner.
Ms PT. Joshi, Assistant Government Pleader for the respondents.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE ON WHICH ARGUMENTS WERE HEARD : FEBRUARY 17, 2026

DATE ON WHICH JUDGMENT IS PRONOUNCED : APRIL 02, 2026

JUDGMENT

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

2. By this petition, the petitioner has challenged the orders passed by the Tahsildar as well as the Sub-Divisional Officer by which penalty is imposed upon the petitioner under Section 48(7) and 48(8) of the Maharashtra Land Revenue Code, 1966 (for short, 'the Code').

3. The petitioner is the owner of Truck bearing no.MH-28-AB-7647 which was seized on 21.03.2025 by the respondent no.4-Tahsildar, Mehkar, District Buldana for alleged illegal transportation of sand. For getting the vehicle released, the petitioner approached to the Authorities,

however, by order dated 25.03.2025 a penalty of Rs.64,800/- was imposed upon the petitioner so also by another order a penalty of Rs.2,00,000/- was imposed upon the petitioner under Section 48(8) of the Code. The petitioner had challenged these orders by filing Revision Application under Section 257 of the Code before the respondent no.2, who passed an order dated 07.08.2025 and remanded the matter. In this background, the proceedings were conducted before the respondent no.4. By order dated 27.10.2025 passed by the respondent no.4, a penalty of Rs.43,200/- was imposed and by order dated 11.11.2025 passed by the Sub-Divisional Officer, Mehkar a further penalty of Rs.2,00,000/- came to be imposed on the petitioner for illegal excavation and transportation of the sand under Section 48(7) and 48(8) of the Code. The petitioner has challenged both these orders by way of instant petition.

4. In support of his contentions, the learned counsel for the petitioner raised several issues including violation of principles of natural justice, wrong application of provisions of Section 48 of the Code in view of the product being 'crushed slag sand' which is a finished product and further absence of any illegality in view of purchase of sand by a valid bill. By adverting my attention to the document of spot panchanama, he submitted that the entire action initiated under Section 48 of the Code is illegal.

5. The learned Assistant Government Pleader for the respondents opposed the petition and attempted to justify the impugned orders. Apart

from raising the issue of alternate remedy, he submitted that the petitioner had indulged in the activities of illegal excavation and transportation of sand and the imposition of penalty is justified. It is submitted that total three brass material was being transported out of which two brass sand was kept beneath and above that one brass of 'crushed slag sand' was kept and as such, the petitioner's contentions are opposed.

6. The original record of the case was produced before this Court. On perusal of the record, it appears from the spot panchanama carried out by the Tahsildar on 17.10.2025 that the petitioner's truck was carrying three brass of 'crushed slag sand'. Despite this, the respondent no.4-Tahsildar has passed the order dated 27.10.2025 by inferring that the petitioner was transporting one brass of crushed sand and two brass of sand and imposed penalty of Rs.43,200/- under Section 48(7) of the Code. Based on similar observations, the Sub-Divisional Officer has passed the order dated 11.11.2025 imposing penalty of Rs.2,00,000/- by recording inference that the petitioner's truck was carrying two brass of sand without royalty. Pertinent to note, the order passed by the Sub-Divisional Officer also mentions that the petitioner was carrying two brass of Muroom and there is nothing on record to explain this discrepancy about reference to sand and muroom at different places in the same order.

7. While considering the rival contentions, it has to be noted that the entire action is based on the spot inspection carried out by the Tahsildar on 17.10.2025. This report categorically mentions that three brass of 'crushed slag sand' was being transported. It has to be noted that the

crushed slag sand is a finished product. Further, it is seen that three brass of crushed slag sand was transported by the petitioner by purchasing it as reflected from the bill showing its purchase from Shriram Hardware Machineries, Dongaon, Tahsil Mehkar. As such, there does not exist any conclusive material to infer that the petitioner had indulged in illegal transportation of three brass sand, much less, without any royalty. Even a perusal of the order dated 11.11.2025 passed by the Sub-Divisional Officer reveals that there is reference to sand and muroom at different places in the same order and there is no explanation about this discrepancy. Considering the primary contentions of the petitioner that the truck was carrying three brass of crushed slag sand, which is supported by the spot inspection report of the Tahsildar, I find force in the contentions of the petitioner. The entire action initiated by the respondent-Authorities of imposition of penalty for alleged illegal transportation of three brass sand is arbitrary and therefore unsustainable in law.

8. Pertinent to note, the respondent-Authorities have imposed penalty under Section 48(7) and 48(8) of the Code by recording an inference that the petitioner's vehicle was loaded with one brass of crushed sand and two brass of sand, which appears to be without any basis. As such, the imposition of penalty by the respondent-Authorities under Section 48(7) and 48(8) of the Code is not based on any material establishing illegal excavation and transportation of sand by the petitioner. Hence, the impugned orders passed by the respondent-Authorities imposing penalty against the petitioner does not stand to the scrutiny of law.

9. Although an objection was raised by the learned Assistant Government Pleader to the maintainability of petition on account of availability of alternate remedy of filing a Revision Application, it has to be noted that in earlier round of litigation the petitioner had availed the said remedy and the matter was remanded. As such, relegating the petitioner to avail the alternate remedy is not warranted, particularly considering the unsustainability of the impugned orders as observed above.

10. In view of the abovementioned factual and legal aspects, the writ petition is allowed. The impugned order dated 27.10.2025 passed by the Tahsildar, Mehkar and the order dated 11.11.2025 passed by the Sub-Divisional Officer, Mehkar are quashed and set aside. Consequently, the petitioner's vehicle bearing Registration no.MH-28-AB-7647 be released.

11. Rule is made absolute in aforesaid terms with no order as to costs.

(PRAFULLA S. KHUBALKAR, J.)