



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

WRIT PETITION NO.2221 OF 2021

Abhijeet s/o Surendra Dharmale,
Aged 36 years, Occ : Business,
R/o. Parvati Nagar No.1, Akoli Road,
Amravati.

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Petitioner

..Versus..

1. State of Maharashtra,
In the Ministry of Revenue & Forest,
Mantralaya, Mumbai-32.
Through its Chief Secretary.
2. District Collector,
Amravati.
3. Sub-Divisional Officer,
Amravati.
4. Tehsildar, Amravati,
Tehsil & District-Amravati.
5. Police Station Officer,
Police Station, Nandraon Peth,
Tehsil-& District-Amravati.

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Respondents

.....
Mr. R.V. Kukday, Advocate for Petitioner.
Mr. H.D. Marathe, AGP for Respondents.
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CORAM : PRAVIN S. PATIL, J.
DATED : 03.08.2026.



JUDGMENT

1. In the present petition, the challenge is to the order passed by the Tahsildar, Amravati dated 04.05.2021 and Sub-Divisional Officer, Amravati dated 12.05.2021 by which the learned Sub-Divisional Officer has imposed the penalty of Rs.4,05,204/- for carrying the excess sand in a truck.

2. It is pointed out that on 26.04.2021 the truck bearing registration No.MH-27-BF-7070 was intercepted by the police officials. According to the police officials, they were suspicions that truck was overloaded and, therefore, detained the said truck at Police Station, Nandgaon Peth, District-Amravati.

3. After the truck was seized, the matter was referred to the Tahsildar, Amravati i.e. Respondent No.4. The learned Tahsildar, by invoking the provisions of Section 48(7) & (8) of the Maharashtra Land Revenue Code, has imposed a penalty of Rs.2,05,204/- for releasing the truck which was seized by the police officials.

4. The learned Tahsildar, by his further order, has forwarded the matter to the Sub-Divisional Officer for taking action as per the Section 48 (8)(2) of the Maharashtra Land Revenue Code and Government Notification dated 12.01.2018. The learned Sub-Divisional Officer, by the impugned order dated 12.05.2021, has enhanced the penalty by Rs.2,00,000/- and accordingly, the



petitioner was directed to pay the total penalty of Rs.4,05,204/-.

5. The petitioner, being aggrieved by the said orders of the Tahsildar as well as the Sub-Divisional Officer, approached before this court by raising a ground that at the instance of the police officials, the vehicle cannot be seized. It is his submission that the police official has no authority under the under the Maharashtra Land Revenue Code to seize the vehicle if they found the vehicle is overloaded while transportation of sand. According to him, the entire authority lies with revenue authority and, therefore, the action which was initiated at the instance of police officials, is illegal in the matter.

6. The petitioner, who approached before this court, has raised a ground that initiating of the proceeding at the instance of the police officials is not permissible as per settled position of law. According to him, as per the law laid down by this court particularly in *Writ Petition No.8424/2018 in Gufran Khan Rahmatullah Khan .vs. State of Maharashtra, through Superintendent of Police, Akola*, it is held that the action of seizure by police officials is without jurisdiction. Consequently, all consequential actions taken by the Revenue Authority would be without jurisdiction.

7. The petitioner further pointed out that the view expressed by the Division Bench in the case of *Gufran Khan Rahmatullah Khan was subsequently followed in the Writ Petition No.1080/2021 (Shri Prasad s/o Chakradhar Bhugul .vs. State of Maharashtra and others)*



observed specifically in Para 5 and 6 as under :

5. As regards the powers of police, the Division Bench of this Court in Writ Petition No.8424/2018 (Gufran Khan Rahmatullah Khan Maharashtra and others) decided on 13/03/2019 has held that the action of seizure by police station itself being without jurisdiction, all further actions taken in the case by the Revenue Authority would also have to be termed as the ones without jurisdiction.

6. That being so, the Police Station, Gadgenagar could not have seized the vehicle under Section 48 of the MLR Code. Further, the Tahsildar could not have invoked Section 48(8) of the MLR Code to impose penalty on the truck inasmuch as Section 48(8) provides that the machinery/equipment used for unauthorized transportation of minerals, if seized under Clause (1) of Section 48(8), the same shall be produced before the Officer not below the rank of Deputy Collector within 48 hours of such seizure, who may release the said vehicle/as may be equipment to the owner on penalty as may be prescribed.”

8. The learned AGP, however, strongly opposed the present petition. According to the respondents as trucks were found to be overloaded and transported the sand illegally, they were the best persons who has to take action in the matter and accordingly. they have initiated the proceeding in the matter. According to the learned AGP, the ultimate action is taken by the revenue authority in the matter by imposing the penalty, therefore, considering this aspect of the matter, the action taken on behalf of the police officials cannot be



said to be illegal in the facts and circumstances of the matter.

9. In the present case, in the light of the law laid down by the Division Bench and followed by the coordinate bench, it is clear that if the proceedings are initiated at the instance of police officials, then all the consequential proceedings are vitiated.

10. In the present case admittedly the truck was intercepted by the police officials and at their instance it was seized under the suspicion that it was overloaded. It is not in dispute in the present matter that the petitioner was having a valid transit pass.

11. In the facts and circumstances, considering the above said legal position as laid down by the Division Bench of this court and same was followed by the coordinate bench in the matter, action which is initiated at the instance of police officials is certainly contrary to the law laid down by this court. Accordingly the impugned order passed by the learned Tahsildar as well as the learned Sub-Divisional Officer do not survive and same deserves to be quashed and set aside. Accordingly, the following order is passed :

O R D E R

(i) The writ petition is allowed.

(ii) The impugned order dated 04.05.2021 passed by the Respondent No.4-Tahsildar, Amravati and order passed by the Respondent No.3-Sub-Divisional Officer, Amravati dated 12.05.2021 are hereby quashed and set aside.

(iii) The amount which was deposited by the



petitioner as per the order of this court dated 21.05.2021 is directed to be refunded back to the petitioner within a period of four weeks.

12. The writ petition stands disposed of. No order as to the costs.

(Pravin S. Patil, J.)