

(2021) 07 GUJ CK 0005

In the Gujarat High Court

Case No : R/Special Civil Application No. 6638 Of 2021

Khodiyar Trading Through Proprietor Bhagvatsinh Ranjitbhai
Sindhav Alias Rajput

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 02-07-2021

Acts Referred:

Constitution Of India, 1950 — Article 226

Mines And Mineral (Regulation And Development) Act, 1957 — Rule 17

Citation : (2021) 07 GUJ CK 0005

Hon'ble Judges : Ashutosh J. Shastri, J

Bench : Single Bench

Advocate : Jay N Shah, Sahil Trivedi

Final Decision : Allowed

Judgement

Ashutosh J. Shastri, J

1. RULE. Mr. Sahil Trivedi, learned Assistant Government Pleader waives service of rule on behalf of the respondent "State. With the consent of

both the learned advocates, the matter is taken up for final hearing today itself.

2. This petition under Article 226 of the Constitution of India is file for the purpose of seeking the following reliefs :-

â??7(a) This Honâ??ble Court may be pleased to admit and allow this petition.

(b) This Honâ??ble Court may be pleased to issue appropriate writ, order or direction for releasing the vehicle bearing Dumper No. GJ-13-AW-6700

of the ownership of the petitioner which is seized by the respondents and at present the case is pending with the respondent, on such terms and

conditions as this Honâ??ble Court may deem think fit.

(c) Your Lordship may be pleased to issue writ of mandamus or any other appropriate writ, order or direction to decide the application of the petitioner dated 05.04.2021 made to respondent no. 3 and therefore, release the said vehicle.

(d) Pending admission and final disposal of this petition, Your Lordships may be pleased to release the vehicle bearing Dumper No. GJ-13-AW-6700

on appropriate terms and conditions that may be deemed fit and proper to this Honorable Court.

(f) ? ? ?

2. When the matter was taken up initially on 09.06.2021, a draft amendment was tendered by the learned advocate for the petitioner and thereafter,

Mr. Sahil Trivedi, learned Assistant Government Pleader was permitted to take appropriate instructions from the concerned officer. It was submitted

that towards the compounding vehicle charge, the petitioner has already furnished bank guarantee of Rs.1 lakhs as indicated by the authority on

19.05.2021 and is inclined to deposit the amount of penalty of Rs.93,061/- as determined by the authority. Upon such submissions, appropriate

instruction is received by Mr. Sahil Trivedi, learned Assistant Government Pleader and both the learned advocates have jointly drawn attention of this

Court to one identical order which has been passed by the co-ordinate Bench of this Court reflecting on page 19 in Special Civil Application No. 4378

of 2021 dated 15.03.2021 and also an attention was drawn with respect to another matter of similar nature being Special Civil Application No. 7049 of

2020 and have requested that the petition may be dealt with and disposed of on the similar line by imposing conditions as indicated in the said order of

the co-ordinate Bench. Since, no other submissions have been made by both the learned advocates, and requested to dispose of on the similar line and

the Court having accepted the said submission and relying upon the same, is inclined to dispose of the petition, which would meet the ends of justice.

3. In view of the aforesaid submissions, the following conditions are imposed upon while considering the request for release of vehicle of the petitioner.

(a) The petitioner to file an undertaking through E-mail before this Court that the petitioner shall forthwith comply with the directions contained in the

outcome of the proceedings under the Rules of 2017 and Mines and Mineral

(Regulation and Development) Act, 1957.

(b) The petitioner to deposit the amount of penalty of Rs.93,061/-, determined by the authority.

(c) The petitioner has already furnished bank guarantee for a period of 12 months for an amount o Rs.1 lakhs as informed by the authority for

compounding vehicle charges and the same is taken note of even by the authority. The said amount shall be retained or renewed upon request of the

petitioner by the authority till the outcome of the proceedings against the petitioner.

(d) If the petitioner and/or vehicle is found again violating provisions of Rule 17 and Mines and Mineral (Regulation and

Development) Act, 2017, it is open for the concerned authority/Department to invoke the Bank guarantee which is already furnished.

(e) The respondent shall on receipt of the amount of penalty and on receipt of the Bank guarantee which has already been furnished by the petitioner,

forthwith release the vehicle in question.

4. The petition stands allowed in the aforesaid terms. Rule is made absolute accordingly.

Direct Service is permitted.

Registry to communicate this order to the concerned Court/Authority through Fax or E-mail.