

(2026) 08 BOM CK 3162
In the Bombay High Court, Nagpur Bench
Case No : WRIT PETITION NO.1969 OF 2021

Shri Kishor

APPELLANT

Vs

State Of Maharashtra & Ors.

RESPONDENT

Date of Decision : 03-08-2026

Acts Referred:

Maharashtra Land Revenue Code, 1966 — Section 48(8)(2), 48, 48(8)

Citation : (2026) 08 BOM CK 3162

Hon'ble Judges : Pravin S. Patil, J

Bench : Single Bench

Advocate : Mr. R.V. Kukday, Mr. A.M. Ghogare

Final Decision : Allowed

Judgement

1. The Petitioner, who approached before this court, challenged the order passed by Respondent No.3-Tahsildar, Morshi dated 4.6.2021 on the ground that the truck, which was overloaded by sand, was intercepted by the police officials and according to the settled position of law, the police officials are not authorized to take action as alleged in the present case and, therefore, seeks indulgence of this court in the matter.

2. It is the submission of the present Petitioner that on 21.5.2021 the police officials of Local Crime Branch, Amravati were on patrolling and total two trucks intercepted on suspicion of illegal and overloading transportation of sand. After the investigation, it is found that the Truck bearing No.MH-27-BX-3272 was having a total weight of 47670 kg. As such, it is their suspicion that the vehicle is overloaded and accordingly the truck was seized. After the truck was seized, the case was registered before the Tahsildar of overloading and illegally transporting of sand.

3. In the said proceeding, by the impugned order dated 4.6.2021, the learned Tahsildar has imposed the penalty of five times of the market value of the sand and forwarded the case papers before the Sub-Divisional Magistrate for further

action as per Section 48(8) (2) of the Maharashtra Land Revenue Code, 1966.

4. 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.

5. 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 pelanty as may be prescribed.”

6. 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.

7. 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.

8. In the present case admittedly the proceedings were initiated at the instance of the police officials of Local Crime Branch, Amravati who were on patrolling and intercepted the truck owned by the petitioner and on the basis of this, the case was registered before the Tahsildar and penalty is imposed in the matter.

9. In view of the above said legal position, this court has no other option than to

quash and set aside the impugned order. Accordingly, the following order is passed :

ORDER

(i) The writ petition is allowed.

(ii) The impugned order dated 04.06.2021 passed by the respondent no.3 Tahsildar, Morshi is hereby quashed and set aside.

(iii) The amount which was deposited by the petitioner as per the order of this court dated 05.07.2021 is directed to be refunded back to the petitioner within a period of four weeks.

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