



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

948 WRIT PETITION NO. 4484 OF 2026

Sunil Santosh Warude

VERSUS

The State Of Maharashtra Thr. Secretary Revenue And Forest
Dept.

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Advocate for Petitioner : Mr. A.R. Syed

AGP for Respondents: Mr. S.D. Ghayal

CORAM : S. G. CHAPALGAONKAR, J.

Dated : May 08, 2026

PER COURT :-

1. Heard Mr. A.R. Syed, learned advocate appearing for petitioner and Mr. Ghayal, learned Additional Government Pleader for Respondent/State.

2. Petitioner is owner of JCB Machine. On 23.2.2026 while petitioner was undertaking work of leveling and cleaning the Graveyard, police authorities intercepted and seized JCB machine under the pretext of illegal excavation. On 26.2.2026 panchnama was drawn. It shows that, heap of earth material was noticed on the spot. On the basis of information given by police officer, learned Tahsildar issued a show cause notice dated 10.3.2026 to the petitioner as to why penalty of Rs.7,54,300/- shall not be imposed upon him in terms of

section 48 of the Maharashtra Land Revenue Code. Lastly, Tahsildar passed final order dated 24.3.2026 imposing penalty as indicated in show cause notice observing that vehicle was used for illegal excavation of minor mineral.

3. Mr. Syed learned advocate appearing for the petitioner relies upon observations of this Court in case of **Ircon International Limited Vs State of Maharashtra reported in (2019) (5) Mh.L.J. 592**, to contend that mere excavation of ordinary earth de-horse use for which it was put to would not attract levy of penalty.

4. Mr. Syed would further submits that seizure of vehicle and order imposing penalty passed against petitioner by Tahsildar is without jurisdiction. He points out that vehicle was not produced before Sub-Divisional Officer in terms of clause no.2 of sub-section (8) of section 48 of the Code. Apparently, action taken by Tahsildar is ultravirus in view of scheme under section 48 of the MLR Code. Petitioner's vehicle is illegally detained.

5. At this stage, Mr. Ghayal, learned AGP seeks short accommodation to file a detailed affidavit-in-reply explaining the aforesaid lapses as observed by the Court.

6. In that view of the matter, stand over to 23.6.2026.
7. The petitioner's vehicle J.C.B. machine bearing registration no.MH-18/BC-9615 shall be **forthwith** released on furnishing an undertaking to Authority that he shall reproduce the vehicle subject to directions of this Court or final outcome of the writ petition.
8. The petitioner shall furnish such undertaking within a period of 7 (seven) days from today.
9. Parties to act on an authenticated copy of this order.

(S. G. CHAPALGAONKAR, J.)

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aaa/-