



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.16 OF 2024**

Mahendra Dharmaji Papal,
Age 40 years, Occu – Agriculture,
R/o Near Khadda Garuage,
Mangalwar Peth, Dist. Pune -
411 011

... Petitioner

versus

1. State of Maharashtra
Through Authorized Officer and
Assistant Conservator of Forest, Pune.

2. Forest Range Officer,
Indapur, Indapur Division, Pune.

... Respondents

Mr. Pranav H. Bhoite with Mr. Pratik Dalimbe, for Petitioner.
Smt. R.S.Tendulkar, APP for State.

CORAM: N.J.JAMADAR, J.

**RESERVED ON : 16 APRIL 2026
PRONOUNCED ON : 8 JUNE 2026**

JUDGMENT :

1. Rule. Rule made returnable forthwith, and, with the consent of the learned Counsel for the parties, heard finally.

2. By this Petition under Article 227 of the Constitution of India, the Petitioner takes exception to a judgment and order dated 15 September 2023 passed by the learned Additional Sessions Judge, Baramati, in Criminal Appeal No.27 of 2022, whereby the appeal preferred by the Petitioner against

an order dated 1 December 2022 passed by the Authorized Officer and Assistant Conservator of Forest under Section 61-A of the Indian Forest Act, 1972 (the Act, 1927), in its application to the State of Maharashtra, came to be dismissed by affirming the said order passed by the Authorized Officer and Assistant Conservator of Forest.

3. The background facts leading to this Petition can be summerized as under :

3.1 On 5 August 2022, while the Range Forest Officer, Indapur, and the other forest officials were on patrolling duty, a vehicle of TATA 909 make, bearing Registration No.MH-12/EF-8956 was found moving in suspicious circumstances. The team of forest officials intercepted the said vehicle. Taking advantage of the darkness, the driver of the said vehicle made good his escape, abandoning the vehicle.

3.2 Upon search of the said vehicle, it transpired that it was laden with 60 bags containing Charcoal, a forest produce. The Range Forest Officer submitted a report to the Authorized Officer. On the basis of the said Report, a forest crime was registered at C.R.No.1/22-2023 against unidentified person for the offence punishable under Sections 42(2) read with Section 41(1) of the Act, 1927. The said vehicle and Charcoal – a forest produce, were also seized.

3.3 The Range Forest Officer submitted a report to the Authorized Officer.

On the basis of the said report, the Authorized Officer initiated confiscation proceeding under Section 61-A of the Act, 1927, in its application to the State of Maharashtra. After providing an efficacious opportunity of hearing to the Petitioner, whose name was disclosed as the registered owner of the said vehicle, pursuant to the information furnished by the RTO and Shivaji Mete, to whom the Petitioner claimed to have delivered the vehicle by executing a document, a fortnight prior to the incident in question, the Authorized Officer was persuaded to pass an order of confiscation of the said vehicle and the forest produce under Section 61-A (3) and (4) of the Act, 1927. The Authorized Officer, inter alia, recorded that the forest produce was found being transported in the said vehicle without any valid permit.

3.4 Being aggrieved, the Petitioner preferred an appeal before the Court of Session under Section 61-D of the Act, 1927. The learned Sessions Judge, after appraisal of the legality and correctness of the confiscation order passed by the Authorized Officer, in the light of the material on record and the contentions of the parties, found no reason to interfere with the confiscation order passed by the Authorized Officer.

3.5 Being further aggrieved, the Petitioner has invoked the writ jurisdiction.

4. The impugned orders are sought to be assailed on multifold grounds.

5. An affidavit in reply has been filed on behalf of Respondent No.2 in support of the impugned order.

6. In the backdrop of the aforesaid facts and the material on record, I have heard Mr. Bhoite, learned Counsel for the Petitioner, and, Smt. Tendulkar, learned APP for the Respondent – State, at some length.

7. Mr. Bhoite, learned Counsel for the Petitioner, took a slew of exceptions to the impugned order as well as the order of confiscation passed by the Authorized Officer. Firstly, it was submitted that the Petitioner was not provided an efficacious opportunity of hearing, and, thus, the confiscation order having been passed in violation of fundamental principles of natural justice and judicial process, deserves to be quashed and set aside.

8. Secondly, the order of confiscation suffers from the fundamental legal flaw as under the provisions of Section 55 of the Act, 1927, a conviction of a person for the forest offence is a condition precedent for the confiscation of the vehicle which was used in the commission of any forest offence. Thirdly, Mr. Bhoite would urge, the alleged forest offence was not committed on any government property. For that reason also, according to Mr. Bhoite, Section 55 of the Act, 1927 has no application at all to the facts of the case. Support was sought to be drawn from the provisions contained in Section 52 of the Act, 1927. Lastly, it was urged that the learned Sessions Judge was unduly swayed by the presumption incorporated in Section 69 of the Act, 1927 and that vitiated the finding of the learned Sessions Judge.

9. In opposition to this, Smt. Tendulkar, learned APP submitted that it was

an open and shut case of transportation of the Charcoal, a forest-produce, in breach of the rules which warrant a pass for such transportation. There is a material of sterling quality, which shows that upon being intercepted, the unidentified driver of the vehicle abandoned the vehicle and the search of the said vehicle revealed that Charcoal was being illegally transported. Once the factum of illegal transportation of forest-produce is established and there is nothing to show that the owner of the vehicle or any other person who was transporting the said forest-produce had a valid pass, the order of confiscation cannot be faulted at, urged Smt. Tendulkar.

10. To start with the legislative regime which governs the use, transportation and sale of forest-produce. The Indian Forest Act, 1927 was enacted to consolidate the law relating to forest, the transit of forest-produce and the duty leviable on timber and other forest- produce. Under Section 2(4) “forest-produce” includes —

(a) the following whether found in, or brought from, a forest or not, that is to say, —

timber, charcoal caoutchouc, catechu, wood-oil, resin, natural varnish, bark, lac, mahua flowers, mahua sees, kuth and myrabolams, and

... ..

11. “Forest-offence” has been defined in Section 2(3) to mean an offence punishable under the Forest Act, 1927 or under any rule made thereunder.

12. In the context of the controversy at hand, the provisions contained in Chapter VII of the Forest Act, 1927, under the caption, “Of The Control Of Timber And Other Forest-Produce in Transit” deserve to be noted. Chapter VII subsumes the provisions contained in Sections 41 to 44 of the Act.

13. Section 41 (1) vests the control of all timber and other forest-produce in transit by land or water, in the State Government. It also empowers the State Government to make rules to regulate the transit of all timber and other forest-produce. Under sub-Section (2) of Section 41, the rules may prescribe, the routes by which alone timber or other forest-produce may be imported, exported or moved into, from or within the State; prohibit the import or export or moving of such timber or other produce without a pass from an officer duly authorized to issue the same, or otherwise than in accordance with the conditions of such pass; and provide for the issue, production and return of such passes and for the payment of fees therefor.

14. Under Section 42, the State Government is empowered to prescribe penalties for the contravention of the rules, which may extend to one year or with fine which may extend to five thousand rupees (Maharashtra Amendment). In exercise of the powers conferred by sections 26, 32, 41, 42, 51 and 76 of the Indian Forest Act, 1927 and in supersession of the Bombay Forest Rules, 1942, and the analogous Rules, the Government of Maharashtra has framed the Maharashtra Forest Rules, 2014. Chapter VII of

the Maharashtra Forest Rules, 2014 under the caption “Transit of Forest Produce” makes the provision for the transit of Forest produce. Rule 31 provides that no forest-produce shall be moved into or from or within any District of the State except as provided in the Rules, without a pass from some officer or person duly authorized by or under these rules to issue such pass, or otherwise than in accordance with the conditions of such pass or by any route or to any destination other than the route or destination specified in such pass. Proviso to rule 31(1) enumerates the situation in which no such pass shall be required. (The case at hand is not covered by any of those situations).

15. Rule 32 enumerates the designation of the officers who have the power to issue passes under those rules. Rule 33 specifies what the passes issued under the said rules, shall contain, including (a) the name of the person to whom such pass is granted; (b) the quantity and description of forest-produce covered by it; (d) the places from and to which such forest-produce is to be conveyed; (e) the route by which such forest-produce is to be conveyed; and (f) the period of time for which the pass is to be in force.

16. Rule 82 of the Maharashtra Forest Rules, 2014, prescribes penalty for the breach of certain rules, including Rule 31, which proscribes the transit of forest-produce without a valid pass i.e. imprisonment which may extend to one year or with fine which may extend to two thousand rupees, or with both.

17. Chapter IX of the Forest Act, 1927 deals with penalties and procedure. Section 52 of the Forest Act, 1927, empowers the Forest Officer or Police Officer to seize forest-produce together with all tools, boats, vehicle or cattle, if there is reason to believe that a forest-offence has been committed in respect of any forest-produce. Section 55 of the Forest Act, 1927, provides that all timber or forest-produce which is not the property of Government and in respect of which a forest-offence has been committed, and all tools, boats, vehicles and cattle used for committing any forest-offence, shall be liable to confiscation. Sub-Section (2) of Section 55 provides that such confiscation may be in addition to any other punishment prescribed for such offence.

18. By Maharashtra Act 7 of 1985, after Section 61 of the Forest Act, 1927, Section 61-A to 61-G came to be inserted, in its application to the State of Maharashtra, prescribing a mechanism for confiscation proceedings before the authorised officer.

19. Section 61-A prescribes for confiscation by Forest Officers of forest-produce when forest-offence is believed to have been committed. Section 62-B prescribes procedure before confiscation under Section 61-A.. The principle of opportunity of hearing to the affected person is embedded in the said procedure. Section 61-C provides for a remedy of Revision before the Conservator of Forest against an order passed by the Authorised Officer under Section 61-A. Section 61-D, under which the impugned order came to

be passed, provides an Appeal to the jurisdictional Sessions Judge against an order passed under Section 61-A or Section 61-C. Section 61-E clarifies that confiscation of the forest-produce or vehicle etc, under Sections 61-A, 61-C or 61-D does not save the offender from any other punishment which may be imposed upon him under the said Act or any other law. Section 61-F stipulates that after the order of confiscation becomes final, the property so confiscated vests in the State Government free from all encumbrances. Section 61-G bars jurisdiction of other Courts and Authorities with regard to the custody, possession, delivery, disposal of the property seized under the forgoing provisions.

20. The provisions contained in Section 69 also deserve to be noted :

“69. Presumption that forest-produce belongs to Government.— When in any proceedings taken under this Act, or in consequence of anything done under this Act, a question arises as to whether any forest-produce is the property of the Government, such produce shall be presumed to be the property of the Government until the contrary is proved.”

21. Section 69 enacts a presumption that the forest produce belongs to the Government until the contrary is proved. It provides that when in any proceedings taken under this Act, or in consequence of anything done under this Act, a question arises as to whether any forest-produce is the property of

the Government, such produce shall be presumed to be the property of the Government until the contrary is proved.

22. In the context of the controversy at hand in regard to the confiscation of the vehicle, the provisions contained in Section 61-B (2) are of material significance. It reads as under :

“61-B Issue of show cause notice before confiscation under Section 61-A.—(1) No order confiscating tools, boats, vehicles or cattle shall be made under Section 61-A except after notice in writing to the person from whom it is seized and considering his objections, if any:

Provided that no order confiscating a motor vehicle shall be made except after giving notice in writing to the registered owner thereof, if in the opinion of the authorised officer it is practicable to do so, and considering his objections, if any.

(2) Without prejudice to the provisions of sub-Section (1), no order confiscating any tool, boat, vehicle or cattle shall be made under Section 61-A if the owner of the tool, boat, vehicle or cattle proves to the satisfaction of the authorised officer that it was used in carrying the timber, sandalwood, firewood, charcoal or any other notified forest-produce without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the tool, boat, vehicle or cattle and that each of them had taken all reasonable and necessary precautions against such use.

... ..”

23. If the provisions contained in the Forest Act, 1927, in its application to the State of Maharashtra, and the rules framed by the State Government

thereunder are considered in juxtaposition with each other, the anxiety of the legislature in providing a strict mechanism for the use and transit of forest-produce with a view to conserve the forest and arrest de-forestation so as to avoid disastrous consequences of ecological imbalance and environmental de-gradation becomes abundantly clear. The legislature has thus made provisions for the transit of the forest-produce in strict conformity with the rules. The power to confiscate the forest-produce and the vehicles was considered a necessary deterrent to prevent the exploitation and de-gradation of the forest. Thus, while interpreting the provisions of the Act, the legislative object in inserting these stringent measures deserves to be kept in view.

24. In the case of **State of West Bengal and Ors Vs Sujit Kumar Rana**,¹ the Supreme Court enunciated that the statutes which provide for protection of forest to maintain ecological balance should receive liberal construction at the hands of the superior Courts. It was in terms observed that the provisions for confiscation have been made as a deterrent object so that felling of trees and deforestation is not made. The observations in paragraph 19 and 20 of the said judgment are material and hence extracted below :

"19. The provisions of law referred to hereinbefore leave no manner of doubt that upon seizure of forest produce, timber or vehicles etc. the concerned authority has an option to report the factum of such seizure both to the concerned Magistrate as

1 AIR 2004 SC 1851.

also the authorized officer, save and except in the cases which would fall within the purview of the proviso appended to sub-section (2) of Section 52 of the Act, as amended by the State of West Bengal. The report in relation to such seizure is required to be made either for (1) confiscation of the seized property; (2) prosecution of the offender; or (3) for both.

20. The legislature has inserted the aforementioned provisions with a laudable object. Forest is a national wealth which is required to be preserved. In most of the cases, the State is the owner of the forests and forest produce. Depletion of forests would lead to ecological imbalance. It is now well-settled that the State is enjoined with a duty to preserve the forest so as to maintain ecological balance and, thus, with a view to achieve the said object forest must be given due protection. Statutes which provide for protection of forest to maintain ecological balance should receive liberal construction at the hands of the superior Courts. Interpretive exercise of such power should be in consonance with the provisions of such statutes not only having regard to the principle of purposive construction so as to give effect to the aim and object of the legislature; keeping the principles contained in Articles 48-A and 51-A (g) of the Constitution of India in mind. The provisions for confiscation have been made as a deterrent object so that felling of trees and deforestation is not made."

25. Following the aforesaid pronouncement, in the case of **Mohd Ashique Vs State of Maharashtra**,² wherein the provisions dealing with confiscation proceedings (Sections 61-A to 61-G), fell for consideration, the Supreme

2 2009 ALL MR (Cri) 251 (S.C.)

Court reiterated that the purpose behind enacting these provisions in the Forest Act, 1927, cannot be ignored or allowed to be defeated.

26. In the case of **State of Madhya Pradesh Vs Uday Singh**,³ in the context of the provisions of Forest Act, 1927, as amended by the MP Act 25 of 1983, the Supreme Court made following pertinent observations :

“27. The Madhya Pradesh amendments to the Indian Forest Act 1927 are infused with a salutary public purpose. Protection of forests against depredation is a constitutionally mandated goal exemplified by Article 48A of the Directive Principles and the Fundamental Duty of every citizen incorporated in Article 51A (g). By isolating the confiscation of forest produce and the instruments utilised for the commission of an offence from criminal trials, the legislature intended to ensure that confiscation is an effective deterrent. The absence of effective deterrence was considered by the Legislature to be a deficiency in the legal regime. The state amendment has sought to overcome that deficiency by imposing stringent deterrents against activities which threaten the pristine existence of forests in Madhya Pradesh. As an effective tool for protecting and preserving environment, these provisions must receive a purposive interpretation.

For, it is only when the interpretation of law keeps pace with the object of the Legislature that the grave evils which pose a danger to our natural environment can be suppressed. The avarice of humankind through the ages has resulted in an alarming depletion of the natural environment. The consequence of climate change are bearing down on

3 AIR 2019 SC 1597.

every day of our existence. Stationary interpretation must remain eternally vigilant to the daily assaults on the environment.” (emphasis supplied)

27. In the light of the aforesaid statutory regime and judicial precedents, which have expounded the object of the legislative provisions and the approach to be adopted by the Courts in applying the relevant provisions to the facts of the given case, the controversy at hand is required to be appreciated. To start with, it is imperative to note that, there is not much controversy over the factum of the seizure of the said vehicle along with the forest-produce. The report of the Range Forest Officer evidences the factum of seizure of the said vehicle along with the Charcoal.

28. It would be contextually relevant to note that, before the Authorized Officer a submission was sought to be canvassed that the Forest officials had planted the forest-produce in the said vehicle. Both the Authorized Officer and the learned Additional Sessions Judge have repelled the said contention as there was no material to lend credence to such gratuitous suggestion. No contemporaneous document could be placed on record to demonstrate that the Petitioner or Shivaji Mete had raised the said contention at the first possible opportunity. In this view of the matter, the factum of seizure of the forest-produce from the said vehicle can be said to have been established beyond the pale of controversy.

29. It is not the case of the Petitioner that the Petitioner had obtained a pass to transport the forest-produce as mandated by Rule 31(1) of the Rules, 2014. Nor Shivaji Mete claimed to have obtained such pass. Thus, both the transit of the forest-produce and the absence of valid pass to transport the forest-produce can be said to have been duly established.

30. As noted above, under Section 2(3) of the Act, 1927, forest-offence means an offence punishable under the Forest Act, 1927 or under any rules made thereunder. Section 42 of the Act, 1927, inter alia, provides that the State Government may, by rules made under Section 41 prescribe penalties for the contravention of those rules. Under Rule 82 of the Rules, 2014, contravention of the provisions contained in Rule 31, which proscribes transit of forest-produce sans valid pass, is punishable with imprisonment for a term which may extend to one year or with fine, which may extend to two thousand rupees or with both.

31. A cumulative reading of the aforesaid provisions leads to an inescapable inference that the transit of forest-produce without a valid pass becomes punishable under the rules. Once an act or omission is made an offence under any rule made under the provisions of the Act, 1927, it amounts to a forest-offence within the meaning of Section 2(3) of the Act, 1927.

32. Thus, in the facts of the case at hand, a forest-offence in the contemplation of the provisions contained in Section 42 read with Section 41

and Rule 82 of the Maharashtra Forest Rules, 2014, can be said to have been prima facie made out. Once this foundational fact is established, the inquiry into justifiability of the exercise of the power to seize the forest-produce and confiscate the vehicle assumes the character of an objective inquiry. The power to seize and confiscate the forest-produce is conditioned by the satisfaction to be recorded by the Authorized Officer that there was reason to believe that a forest-offence has been committed in respect of the forest-produce. In the case at hand, in view of the aforesaid rather indisputable facts that Charcoal was being transported sans a valid transit pass, it cannot be said that the Authorized Officer had no reason to believe that the forest-offence has been committed in relation to the forest-produce.

33. It is imperative to note that under sub-section (3) of Section 61-A when the Authorized Officer is satisfied that a forest-offence has been committed in respect of forest-produce, produced before him, he shall order the forest-produce so seized to be taken charge of by a forest officer and may order confiscation of the tools, boats, vehicles and cattles used in committing such offence.

34. The submission of Mr. Bhoite premised on the provisions contained in section 55 of the Act, 1927 that the conviction for a commission of a forest-offence is condition precedent, is not well founded. The provisions contained in Section 61-A to 61-G, in their application to the State of Maharashtra,

enshrine a stringent statutory regime. Sub-section (3) of Section 61-A specifically empowers the Authorized Officer to seize forest-produce and order confiscation of all tools, boats, vehicles and cattles used in committing such offence, notwithstanding whether or not a prosecution is instituted for the commission of such offence. Thus, the submission of Mr. Bhoite that the conviction for commission of a forest-offence is a must, before the forest-produce and the vehicle can be seized, cannot be countenanced. Therefore, reliance sought to be placed by Mr. Bhoite on a judgment of the Chhattisgarh High Court in the case of **Lala @ Uma Kant Shrivastava V/s. State of Chhattisgarh and Ors.**⁴, which dealt with the provisions contained in Section 55 of the Indian Forest Act, 1927 (the Central Act), is inapposite.

35. Equally fallacious is the submission of Mr. Bhoite that the seizure and confiscation of the forest-produce and the vehicle in exercise of the power under Section 52 of the Act, 1927 must be preceded by a conviction for an offence in respect of the forest-produce.

36. Suffice to note that the provisions contained in Section 61-A(1) begin with a non-obstante clause not only with regard to the provisions of Chapter IX under the heading “Penalties and Procedure” of the Indian Forest Act, 1927, but also any other law. Section 55 of the Indian Forest Act, 1927 renders all timber or forest-produce which is not the property of Government

4 2011 DGLS (Chh) 318

and in respect of which a forest-offence has been committed, and all tools, boats, carts and cattle used in committing any forest-offence, liable to be confiscated. Thus, the further submission of Mr. Bhoite that the forest-produce or vehicle must be found and seized on a government property is not at all borne out by the plain text of Section 55 of the Act, 1955.

37. The challenge to the confiscation order on the ground of non-observance of the principles of natural justice and fundamental principle of judicial process is required to be noted to be repelled. The Authorized Officer had taken pains to obtain information about the registered owner of the vehicle and given ample opportunities to the Petitioner to participate in the proceedings. Upon a statement being made that the Petitioner had delivered the vehicle to Shivaji Mete, even the latter was provided an efficacious opportunity of hearing. The Petitioner and Shivaji Mete appeared before the Authorized Officer through legal practitioner and canvassed submissions. Therefore, the Petitioner cannot be heard to urge that the Petitioner was not provided an efficacious opportunity of hearing. In substance, the impugned order and the confiscation order cannot be called in question on the ground of infirm decision making process.

38. The conspectus of aforesaid consideration is that, none of the contentions raised by Mr. Bhoite carry any conviction. The material on record

clearly indicates that the forest-produce was being clandestinely transported sans a valid pass in the said vehicle.

39. A useful reference in this context can be made to a judgment of the Supreme Court in the case of **State of Karnataka V/s. K. Krishnan**⁵ and a Division Bench judgment of this Court in the case of **Shyamrao Kewalram Kapgate and Anr. V/s. State of Maharashtra and Ors.**⁶ In the case of **K. Krishnan (supra)**, the Supreme Court enunciated that the provisions of the Karnataka Forest Act were required to be strictly complied with and followed for the purposes of achieving the object for which the Act was enacted. Liberal approach in the matter with respect to the property seized, which is liable to confiscation, is uncalled for as the same is likely to frustrate the provisions of the Act. The liberal approach in the matter would perpetuate the commission of more offences with respect to the forest and its produce which, if not protected, is surely to affect the mother-earth and the atmosphere surrounding it. The Courts cannot shut their eyes and ignore their obligations indicated in the Act, enacted for the purposes of protecting and safeguarding both the forests and their produce.

40. In the case of **Shyamrao (supra)**, the Division Bench of this Court enunciated that, once it was not in dispute that the Petitioners had been transporting the forest-produce in the absence of any transit pass for such

5 AIR 2000 SC 2729

6 2003(4) Mh.L.J. 181

transportation of the forest-produce, the forest offence was clearly disclosed and, therefore, no fault can be found with the impugned order passed under Section 61-A and confirmed under Section 61-D of the said Act, on the ground of absence of transit pass while transportation of such forest-produce.

41. In the backdrop of the approach expected of the Authority and the Courts delineated above in the authoritative judicial pronouncements, the learned Additional Sessions Judge rightly dismissed the appeal against the confiscation order. Thus, I am impelled to hold that, no interference is warranted in the impugned order.

42. Hence, the following order :

ORDER

- (i) The Writ Petition stands dismissed.
- (ii) Rule discharged.
- (iii) No costs.

(N.J.JAMADAR, J.)

43. At this stage, learned Counsel for the Petitioner seeks continuation of the order dated 2 January 2024 for a period of six weeks.

44. In the light of the view this Court is persuaded to take, the prayer for further continuation of the interim order, does not merit acceptance.

45. Thus, the oral application for stay stands rejected.

(N.J.JAMADAR, J.)