



IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

THE HON'BLE CHIEF JUSTICE MR. MANOJ KUMAR GUPTA

AND

THE HON'BLE JUSTICE MR. SUBHASH UPADHYAY

WRIT PETITION (M/B) NO. 213 of 2025

23rd July, 2026

Deepak

-----Petitioner

Versus

State of Uttarakhand and others

----Respondents

Presence:-

Mr. Tejas Agarwal, learned counsel for the petitioner.

Mr. G.D. Kandpal, learned Additional Advocate General for the State.

JUDGMENT : (per Mr. Manoj Kumar Gupta C. J.)

1. The present writ petition has been filed praying for issuance of writ of mandamus commanding the respondents to release the petitioner's tractor-trolley bearing Registration No.UK15C7488 and also to award compensation for having illegally seized his tractor-trolley.

2. According to the respondents, the tractor-trolley in question was found involved in illegal transportation of minerals for the third time, therefore, the same has been seized as per Rule 14(4)(a) of the Uttarakhand Mineral (Prevention of Illegal Mining, Transport and Storage) Rules 2021, which is as follows:-

“(4)(a) The illegal transporter of vehicle and vehicle owner, if caught twice or more in a year in illegal transportation of minerals, the amount of penalty as prescribed in Sub rule 2 shall be imposed, however, in case the said vehicle is caught for third time in illegal transport of minerals, he will be considered a habitual criminal, and his vehicle will be confiscated and declared as state property.”



3. It has come on record that after seizure of the tractor-trolley, a report was submitted on 01.08.2024 by the In-charge Officer acting on behalf of District Magistrate, Garhwal to SDM, Kotdwar that the vehicle be confiscated and it be vested in the State Government. However, there is no material on record to indicate that thereafter any confiscation order was passed. Further, there is also no evidence to show that any complaint was filed in any Court against the petitioner for commission of the alleged offence.

4. Under the Rules, 2021, there is no provision, as to how proceedings would be held for confiscation of the vehicle and, therefore, recourse has to be taken to the Parent Act i.e. the Mines and Minerals (Development and Regulation) Act, 1957. Section 21(4)&(4A) thereof are relevant for the proposes of instant case, which are, as follows:-

“[(4) Whenever any person raises, transports or causes to be raised or transported, without any lawful authority, any mineral from any land, and, for that purpose, uses any tool, equipment, vehicle or any other thing, such mineral tool, equipment, vehicle or any other thing shall be liable to be seized by an officer or authority specially empowered in this behalf.]

[(4A) Any mineral, tool, equipment, vehicle or any other thing seized under sub-section (4), shall be liable to be confiscated by an order of the court competent to take cognizance of the offence under sub-section (1) and shall be disposed of in accordance with the directions of such court.]”

5. A Court competent to take cognizance of offence under sub-section (1) is authorized to pass a confiscation order and the confiscated property shall be disposed of in accordance with the directions of such Court.



6. In view of the said legal position, we required learned State Counsel by our order dated 12.02.2026 to obtain specific instructions as to whether any proceeding has been initiated in relation to the offence in question. In pursuance of the said order, learned State Counsel, after obtaining instructions, stated on the next date that no criminal proceedings have been initiated against the petitioner, so far and he further stated that the tractor-trolley has already been released in favour of the petitioner after accepting security of Rs.2 Lakhs in terms of interim order passed by this Court on 16.06.2025.

7. Section 22 of the Mines and Minerals (Development and Regulation) Act, 1957, further provides that no Court will take cognizance of any offence punishable under the Act or any Rules made thereunder except upon complaint in writing made by a person authorized in this behalf by the Central Government or the State Government.

8. It is clear from the facts narrated above that so far neither any criminal proceedings have been initiated for alleged violation of the provisions of the Act and rules, nor any confiscation order is in existence.

9. Considerable time has already passed since the seizure of the vehicle. The seizure cannot continue for indefinite period.



10. Consequently, the seizure order is quashed. The writ petition is allowed. The respondents are directed to release the security furnished by the petitioner in compliance of the order dated 16.06.2025.

11. Pending application, if any, also stands disposed of.

(MANOJ KUMAR GUPTA, C. J.)

(SUBHASH UPADHYAY, J.)

Dated: 23.07.2026

KKS/PP