

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7583 of 2004

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Jagannath Yadav son of late Arjun Yadav, resident of village-Garuroho, PO-Maina,
PS-Mahesi, District-Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Secretary, Environment and Forest Department, Govt. of Bihar
3. The District Magistrate, Saharsa,
4. Authorised Officer-cum-Divisional Forest Officer, Purnea, Forest Extension
Division, Purnea.
5. Divisional Forest Officer, Saharsa.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Alif Inam, Adv.

For the Respondent/s : Mr. Ravi Bhardwaj, AC to GA-5

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 24-04-2015

Heard learned counsel for the petitioner and learned
counsel for the State.

In this case, the petitioner is challenging the order dated
14th February 2004 passed by the Revisional Authority whereby and
whereunder he has set aside the order passed by the Appellate
Authority under section 52A of the Indian Forest Act, 1927.

In the present case, the petitioner is said to have
committed an offence under the Forest Act by his tractor bearing
Registration no. JP-5822 which was engaged in carrying five logs of
Shisham. The tractor was intercepted and later on along with logs
were seized and the copy of the seizure-list was forwarded to the
Magistrate as provided under the Forest Act.



A confiscation proceeding was initiated by the District Forest Officer for violation of provisions of the Forest Act as provided under section 52 of the Forest Act and it was found that petitioner's tractor was involved in illegal transportation of the forest-products and by order dated 3/6/2000 order was passed for confiscation. Against that order, an appeal was filed by the petitioner before the District Magistrate vide Appeal no. 1/2000-01. The Appellate Authority considered the plea of the petitioner and found that the defence taken by him is sustainable and set aside the order of the Confiscating Officer. Against that order, the District Forest Officer filed a revision application before the Secretary, Environment and Forest Department, Government of Bihar as provided under section 52(b) of the Forest Act and the Revisional Authority examined the matter and set aside the order of the Appellate Authority.

It has been submitted that the District Forest Officer was the Authorized Officer to conduct the confiscation proceeding, he could not be a party to filing revision application before the Commissioner as a person, who himself is an arbiter to decide the lis between the parties, cannot be allowed to file a revision application against the order of Appellate Authority. In support of his contention, he has relied on judgment reported in 2003 (4) PLJR 55 (Dr. Md. Shahid Jamil Khan v. State of Bihar) where the Court is of the view

that the District Forest Officer was an authorized Officer could not have filed a revision application as he was to act as independent arbiter, he could not have involved and recognized himself to be a party to the lis.

The counsel for the State has submitted that the judgment that has been relied on by the petitioner is not applicable in the present case as in that case one of the issues was involved that the person who filed the appeal had no right. Be that as it may, in the present case, Forest Act talks about the Forest Officer which has been defined under Section 2(2) of the Forest Act and also provides Authorized Officer for the purposes of adjudicating the dispute of the confiscation. In the present case, the District Forest Officer is party to the appeal but fact remains he is the Adjudicatory Authority who has decided the confiscation proceeding against the petitioner. Authorised Officer decides the lis one way or the other, at that time, he cannot be said to be representing the interest of the State. If he feels that he is representing the interest of the State, in that circumstance, he cannot be an independent arbiter to adjudicate the dispute which has been brought before him. Keeping in mind the propriety and probity, if an Officer has been authorized to act as arbiter to decide the lis between the parties, he cannot confine himself to represent any particular party to the litigation before him, he has to act as an independent person

irrespective of whether he is an officer of the State and the case of the State is before him. In such view of the matter, the person, who is an Adjudicatory Authority, cannot be a party to filing a revision application in support of his own order, as it will be travesty of justice to maintain neutrality.

In such view of the matter, the order of the Revisional Authority is set aside. However, the State will be at liberty, if so advised, may file a revision application through proper officer of the State of Bihar.

While deciding the issue of limitation, the Revisional Authority will consider the pendency of this case before this Court.

This Court is not giving any opinion on the merit of the case.

Accordingly, this petition is disposed of.

(Shivaji Pandey, J)

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