

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5777 of 2015

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Arvind Kumar son of Sri Jagdeo Singh resident of village- Dumari, P.S.-
Ram Nagar, District- Varanashi (U.P.) at Present Residing at village-
Khurmabad, P.S. - Chenari District- Rohtas at Sasaram.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Secretary Forest and Environment Department Govt. of Bihar Patna.
3. The Divisional Forest Officer Kaimur Forest Division at Bhabua.
4. The Regional Forest Officer Bhabua, District- Kaimur at Bhabua.
5. The District Magistrate Cum Collector Kaimur at Bhabua.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dharmendra Kumar Singh

For the Respondent/s : Mr. Roy Shivaji Nath, AAG 3

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

4 20-08-2015 Heard Sri Dharmendra Kumar Singh, learned counsel
for the petitioner and Sri Roy Shivaji Nath, learned AAG No. 3.

The petitioner, invoking writ jurisdiction of this court under Article 226 of the Constitution of India, has prayed for provisional release of his Truck bearing Registration No. U.P. 67-0397, which was seized on an allegation of commission of offences under the Indian Forest Act, 1927 in the year 2012. Thereafter, confiscation order was also passed and the vehicle was confiscated by order dated 17.11.2012 passed by the Authorized Officer –cum- Divisional Forest Officer, Kaimur Forest Division, Bhabhua in Confiscation Case No. 8 of 2012. Against the order of confiscation the petitioner preferred Appeal



which was rejected and then approached the Revisional Authority. By order dated 3.3.2014 the Revisional Authority i.e. Secretary, Forest And Environment Department /respondent no. 2 remitted back the matter to the Authorized Officer –cum- Divisional Forest Officer for re-examining the same and passing order afresh. While the matter was remitted back, in a writ petition i.e. CWJC No. 9254 of 2014 this court directed the Divisional Forest Officer - cum- Authorized Officer to dispose of the matter in accordance with law. The petitioner was granted liberty to pray for provisional release of the Truck during the pendency of the proceedings.

Learned counsel for the petitioner submits that immediately after the order passed by this court the petitioner filed an application on 31.7.2014 before the Divisional Forest Officer in Confiscation Case No. 8 of 2012 for provisional release of the vehicle, however, the D.F.O. did not take notice of his application and instead of passing any order in respect of provisional release, he finally passed order in Confiscation Case against the petitioner. In the present writ petition the petitioner again has prayed for provisional release of the vehicle in question.

In this case a counter affidavit has been filed on behalf of the respondent no. 2 to 4. Sri Roy Shivaji Nath, learned A.A.G. No. 3 at the very outset submits that the petitioner has suppressed



the fact regarding filing of the Appeal against the order dated 20.9.2014 passed by the Divisional Forest Officer –cum- Authorized Officer. He submits that since the petitioner has not approached this court with clean hand the writ petition may be dismissed on this count alone. However, he does not dispute that the vehicle in question was seized long back in the year 2012 and same is still lying with the Department.

Learned counsel for the petitioner submits that if any further the vehicle is allowed to remain in open sky, then there is every possibility that the condition of the vehicle will come to a situation whereafter the vehicle may not be of any use, if this court may not interfere at the moment.

Besides hearing learned counsel for the parties, I have also perused the materials available on record.

This court has noticed in number of cases that the Forest Officials are not at all exercising their power under Section 53 of the Indian Forest Act, 1927 which empowers the Authority regarding release of the vehicle. Moreover, allowing the vehicle to remain idle that too in open sky will certainly serve no purpose save and except allowing the vehicle to be destroyed.

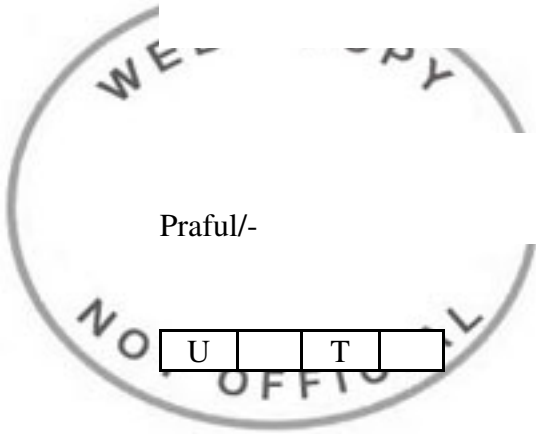
In that view of the matter the court considers that even during the pendency of the confiscation proceeding or pending

Appeal or Revision the Authorities may take appropriate steps so that the vehicle may provisionally be released on proper security and at least on deposit of the amount equivalent to value of the goods seized from the said vehicle after proper verification, security and bond.

In view of the facts and circumstances of the present case i.e. the fact that the vehicle in question was seized in the year 2012 and till date the petitioner is moving from the Seizing Authority to the Revisional Authority and now the matter is pending before the Appellate Authority, in the larger interest it would be appropriate to direct the Authority concerned to release the seized vehicle i.e. the Truck No. U.P. 67-0397 in favour of the petitioner on production of relevant documents to show ownership and also on furnishing of Bank Guarantee to the tune of Rs. 35,000/- with proper bond and security. The vehicle must be released within a period of one month from the date of receipt / production of a copy of this order after completion of the aforesaid formalities. Regarding Bank Guarantee to the tune of Rs.35,000/-. The court has considered the value of Bank Guarantee to the tune of Rs. 35,000/- in view of the fact that from the Truck in question about 450 C.F.T. alleged stone cheapes were found.

In view of the facts and circumstances, the writ petition

stands allowed with observation and direction indicated hereinabove.



(Rakesh Kumar, J)