IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1898 of 2015

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Jitendra Kumar Sah S/o - Jay Prakash Sah R/o Village & P.O. - Lahunipara, P.S.- Lahunipara, District- Sundergarh, Orissa. through :- Power of Attorney holder Anil Kumar Gupta, S/o -Ram Pujan Gupta, R/o - Company Sarai, P.S- Sasaram, District- Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Forest Department of Government of Bihar, Patna.
2. The Chief Conservator of Forest Bihar, Patna.
3. The District Magistrate Rohtas, Sasaram.
4. The Authorised Officer-cum-Divisional Forest Officer Rohtas, Sasaram.
5. The District Forest Officer, Rohtas, Sasaram.
6. The Range Officer, Sasaram Forest Ara at Sasaram.
7. The Forester Tilauthu cum Darigaon, Forest Circle District Rohtas.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 2063 of 2015

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Kamlesh Kumar S/o - Budhnath Singh R/o Village- Lalganj, P.S- Sasaram, District- Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Forest Department Government of Bihar Patna.
2. The Chief Conservator of Forest Bihar, Patna.
3. The District Magistrate Rohtas, Sasaram.
4. The Authorized Officer cum Divisional Forest Officer Rohtas, Sasaram.
5. The District Forest Officer, Rohtas, Sasaram.
6. The Range Officer, Sasaram Forest Ara at Sasaram.
7. The Forestor Tilauthu cum Darigaon, Forest Circle District Rohtas.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 2687 of 2015

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Vidya Bhushan Kumar aged about 35 years, son of Late Vijay Kumar resident of Mohalla- Jaydeo Nagar, P.S. - Aurangabad, District-Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar through the Collector, Rohtas at Sasaram.
2. The District Forest Officer-cum-Authorised officer, Rohtas at Sasaram.

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.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 2857 of 2015

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Sonu Kumar Son of Kalika Prasad, resident of village- Golpar, Bharauli, P.O. Ujiyar, Police Station - Nathi, District - Baliya, at present, village- Chilahari, P.O. Chilahari, Police Station - Dumraon, District - Buxar (Bihar)

.... Petitioner/s

Versus

1. The State of Bihar
2. The Chief Conservator of Forest, Bihar, Patna
3. The Principal Secretary, Forest Department, Government of Bihar, Patna
4. The District Magistrate, Rohtas at Sasaram
5. The Divisional Forest officer, Rohtas at Sasaram
6. The District Forest officer, Rohtas at Sasaram
7. The Ranger Officer, Sasaram Forest Area, Rohtas at Sasaram
8. The Ranger, Fasilpur Forest Area, Sasaram East Range, Rohtas at Sasaram

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 2962 of 2015

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Ganesh Prasad Keshari son of Nandu Prasad Keshari, resident of village- Amra Talab, P.O. Karwandia, P.S. Sasaram (M), District - Rohtas

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Forest Department, Government of Bihar, Patna
2. The District Magistrate, Rohtas at Sasaram
3. The Divisional Forest officer-cum-Authorised officer, Rohtas Forest Division, Sasaram, Rohtas

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 3056 of 2015

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Madan Kumar Singh son of Ram Kesh Singh H. No. 2, Line No. 2 Hindustani Line Namda Basti , Golmuri Jamshedpur, District - East Singhbhum, (Jharkhand).

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Forest Department, Government of Bihar, Patna
2. The District Magistrate, Rohtas at Sasaram.

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3. The Divisional Forest Officer-cum-Authorized Officer, Rohtas Forest Division, Sasaram, Rohtas.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 3064 of 2015

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Bajrangi Singh @ Bajrang Bali Ray, son of Ram Sewak Rai, resident of village - Amra Talab, P.S.- Sasaram (M), District - Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Forest Department, Government of Bihar, Patna.
2. The District Magistrate, Rohtas at Sasaram.
3. The Divisional Forest Officer-cum-Authorised Officer, Rohtas Forest Division, Sasaram, Rohtas.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 3072 of 2015

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Rakesh Kumar son of Gobardhan Gupta, resident of village + P.O. Karwandia, Police Station- Sasaram (M) District- Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Department of Forest and Environment Bihar, patna
2. The Divisional Forest Officer- cum-Authorised Officer Rohtas, Forest Division, Rohtas at Sasaram.
3. The Forester, Tilauthu, Rohtas.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 3079 of 2015

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Dhananjay Kumar S/o Triveni Sah R/o Village- Amratalab, P.O.- Karwandia, P.S.- Sasaram, District- Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Forest Department Government of Bihar, Patna.
2. The Chief Conservator of Forest Bihar, Patna.
3. The District Magistrate, Rohtas, Sasaram.

4. The Authorized Officer cum Divisional Forest Officer Rohtas, Sasaram.
5. The District Forest Officer, Rohtas, Sasaram.
6. The Range Officer Sasaram Forest Ara at Sasaram.
7. The Forester Tilauthu cum Darigaon, Forest Circle District- Rohtas.

.... Respondent/s

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Appearance:
(In CWJC No. 1898 of 2015)
For the Petitioner/s : Mr. Uma Shankar Singh, Advocate
For the Respondent/s : Mr. S.K. SINHA, GP-15
(In CWJC No. 2063 of 2015)
For the Petitioner/s : Mr. Uma Shankar Singh, Advocate
For the Respondent/s : Mr. R.K. SINGH, GP-2
(In CWJC No. 2687 of 2015)
For the Petitioner/s : Mr. Siddharth Harsh, Advocate
For the Respondent/s : Mr. KINKAR KUMAR, Advocate
(In CWJC No. 2857 of 2015)
For the Petitioner/s : Mr. Vipin Kumar Singh, Advocate
For the Respondent/s : Mr. MANI KANT MISHRA, GP-25
(In CWJC No. 2962 of 2015)
For the Petitioner/s : Mr. Rajani Kant Singh, Advocate
For the Respondent/s : Mr. ABBAS HAIDER, SC-16
(In CWJC No. 3056 of 2015)
For the Petitioner/s : Mr. Rajani Kant Singh, Advocate
For the Respondent/s : Mr. GAUTAM BOSE, AAG-8
(In CWJC No. 3064 of 2015)
For the Petitioner/s : Mr. Rajani Kant Singh, Advocate
For the Respondent/s : Mr. S. RAZA AHMAD, AAG-9
(In CWJC No. 3072 of 2015)
For the Petitioner/s : Mr. Sanjay Kumar Tiwary, Advocate
For the Respondent/s : Mr. D.K. PRASAD, GP-7
(In CWJC No. 3079 of 2015)
For the Petitioner/s : Mr. Uma Shankar Singh, Advocate
For the Respondent/s : Mr. MITHILESH KUMAR PATHAK, SC-7

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT
Date: 08-04-2015

Heard learned counsel for the parties.

Since in each of these cases the relief prayed by the petitioners is identical hence they have been taken up together for analogous hearing and final disposal with the consent of the parties.

The petitioners in each of the writ petitions seek a direction to the Divisional Forest Officer-cum-Authorized Officer,

Rohtas Forest Division, District-Rohtas at Sasaram under the Indian Forest Act, 1927, for provisional release of their respective vehicle pending adjudication of the confiscation proceedings. In each of these cases the vehicle of these petitioners stands seized on grounds of alleged violation of the provisions of the Indian Forest Act and which has led to institution of the Forest Case which is now pending consideration in respective confiscation proceedings before the Authorized Officer who happens to be the Divisional Forest Officer, Rohtas Forest Division, Rohtas. The contention advanced by the learned counsel for the respective petitioners is that keeping the vehicles under the open sky to face the vagaries of the weather would serve no purpose and would only turn them obsolete rendering them useless for any future use and which would benefit none rather it would only result in loss.

Learned counsel for the respective petitioners have stated that the petitioners would not be creating any third party right nor they would alienate the vehicle pending disposal of the respective confiscation case and that they would produce the vehicle as and when required in the confiscation proceedings. It is also the contention of learned counsel that release petitions have also been filed before the statutory authority but has remained pending in most of the cases and thus these writ petitions.

The individual details of the petitioner in each of the

writ petitions are given hereinbelow.

(1). **C.W.J.C. No. 1898 of 2015**

In this case vehicle of the petitioner bearing Registration No. OR14Q/7291, Chassis No. 373134 ARZ 103649 and Engine No. 697 TC 56ARZ104893 was seized on allegations of transporting stone chips without any supportive papers giving rise to Forest Case No. 1 of 2015 which has led to registration of Confiscation Case No. 3 of 2015 pending adjudication before the Divisional Forest Officer-cum-Authorized Officer, Rohtas Forest Division, Rohtas at Sasaram.

(2). **C.W.J.C. No. 2063 of 2015**

In this case the vehicle of the petitioner bearing Registration No. BR1GA/2250 was seized on allegations of transporting stone chips without any supportive papers giving rise to Forest Case No. 5 of 2015 which has led to registration of Confiscation Case No. 4 of 2015 pending adjudication before the Divisional Forest Officer-cum-Authorized Officer, Rohtas Forest Division, Rohtas at Sasaram.

(3). **C.W.J.C. No. 2687 of 2015**

In this case the vehicle of the petitioner bearing Registration No. JH01G-3082, Chassis No. 388094MWZ 135951 and Engine No. 30M6Z105979 was seized on allegations of transporting forest produce without any supportive papers giving rise to Forest

Case No. 68 of 2014 which has led to registration of Confiscation Case No. 92 of 2014 pending adjudication before the Divisional Forest Officer-cum-Authorized Officer, Rohtas Forest Division, Rohtas at Sasaram.

(4). **C.W.J.C. No. 2857 of 2015**

In this case the vehicle of the petitioner bearing Registration No. UP-60T-3033 was seized on allegations of transporting stone chips without any supportive papers giving rise to Forest Case No. 001 of 2014 which has led to registration of Confiscation Case No. 3 of 2014 pending adjudication before the Divisional Forest Officer-cum-Authorized Officer, Rohtas Forest Division, Rohtas at Sasaram.

(5). **C.W.J.C. No. 2962 of 2015**

In this case the vehicle of the petitioner bearing Registration No. JH02M/4241 was seized on allegations of transporting stone chips without any supportive papers giving rise to Forest Case No. 68 of 2013 which has led to registration of Confiscation Case No. 122 of 2013 pending adjudication before the Divisional Forest Officer-cum-Authorized Officer, Rohtas Forest Division, Rohtas at Sasaram.

(6). **C.W.J.C. No. 3056 of 2015**

In this case the vehicle of the petitioner bearing Registration No. JH05Z-8188 was seized on allegations of

transporting stone chips without any supportive papers giving rise to Forest Case No. 26 of 2014 which has led to registration of Confiscation Case No. 76 of 2014 pending adjudication before the Divisional Forest Officer-cum-Authorized Officer, Rohtas Forest Division, Rohtas at Sasaram.

(7). **C.W.J.C. No. 3064 of 2015**

In this case the vehicle of the petitioner bearing Registration No. BR-24J-2346 with Trailer No. BR-24 G/ 2239 was seized on allegations of transporting stone chips without any supportive papers giving rise to Forest Case No. 5 of 2015 which has led to registration of Confiscation Case No. 12 of 2015 pending adjudication before the Divisional Forest Officer-cum-Authorized Officer, Rohtas Forest Division, Rohtas at Sasaram.

(7). **C.W.J.C. No. 3064 of 2015**

In this case the vehicle of the petitioner bearing Registration No. BR-24J-2346 with Trailer No. BR-24 G/ 2239 was seized on allegations of transporting stone chips without any supportive papers giving rise to Forest Case No. 5 of 2015 which has led to registration of Confiscation Case No. 12 of 2015 pending adjudication before the Divisional Forest Officer-cum-Authorized Officer, Rohtas Forest Division, Rohtas at Sasaram.

(8). **C.W.J.C. No. 3072 of 2015**

In this case the vehicle of the petitioner bearing

Registration No. BR-26A-8329, Chassis No. 396522ETT2210937, Engine No. 60D62474997 was seized on allegations of transporting stone chips without any supportive papers giving rise to Forest Case No. 4 of 2015 which has led to registration of Confiscation Case No. 11 of 2015 pending adjudication before the Divisional Forest Officer-cum-Authorized Officer, Rohtas Forest Division, Rohtas at Sasaram.

(9). **C.W.J.C. No. 3079 of 2015**

In this case the vehicle of the petitioner bearing Registration No. BR-24G-1284 was seized on allegations of transporting stone chips without any supportive papers giving rise to Forest Case No. 3 of 2015 which has led to registration of Confiscation Case No. 8 of 2015 pending adjudication before the Divisional Forest Officer-cum-Authorized Officer, Rohtas Forest Division, Rohtas at Sasaram.

I have heard learned counsel for the parties and I have perused the materials on record.

As I have taken note of hereinabove, the vehicles of these petitioners stand seized on allegation of being loaded with illegally mined stone chips. Though learned counsel for the respective petitioners have tried to defend the load carried on each of the vehicles but considering that the matter is pending adjudication before the statutory authority, this Court would express no opinion thereon. However taking note of the circumstances that these vehicles

are lying unattended under the open sky to face the vagaries of weather, this Court is of the opinion that allowing these vehicles to turn obsolete would benefit none rather it would only lead to losses and thus this Court would deem fit and proper to order for the provisional release of the vehicles subject to furnishing of supporting papers of ownership and security as deem fit and proper by the authorized officer and which release obviously would be subject to final outcome of the confiscation proceedings.

In the circumstances discussed, this Court would direct the Divisional Forest Officer, Rohtas Forest Division, Rohtas cum Authorized Officer under the Forest Act, 1927 in seisin of the respective confiscation cases which are subject matter of the present proceedings to order for the release of the respective vehicles in favour of the petitioners within eight weeks of the receipt/production of a copy of the order subject to the fulfillment of the following conditions.

(a) The petitioner shall produce all original papers supporting the ownership of the vehicle in question including the registration papers, the insurance paper, the tax token and the pollution certificate.

(b) The petitioner shall file an undertaking in the form of an affidavit that he shall not alienate the vehicle or transfer the vehicle in favour of any third party during the pendency of the confiscation proceedings

and shall produce the vehicle as and when required in the confiscation proceedings.

(c) The petitioner shall furnish such security as deem fit and proper by the Divisional Forest Officer-cum-Authorized Officer, Rohtas at Sasaram which shall neither be in the form of cash nor bank guarantee; and

(d) The release of the vehicle shall be governed by the final outcome of the confiscation proceedings.

With the observations and directions aforementioned, the writ petitions are disposed of.

(Jyoti Saran, J)

S.Sb/-

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