

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8835 of 2015

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1. Anil Yadav son of Chandrama Singh Resident of Village - Gopi Bigha, P.S. - Dehri, District Rohtas, at present resident of 85/40, Bailey Road, Officers Flat, Patna.

.... 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, District - Rohtas.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 9715 of 2015

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1. Prabhunath Giri son of Late Suchit Goswami, Resdient of village- Dhaudarh, P.S.- Sasaram(M), Distt- Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary Forest Department, Govt. of Bihar, Patna.
2. The District Magistrate, Rohtas at Sasaram
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. 10445 of 2015

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1. Shailendra Kumar Choudhary son of Dharmdeo Choudhary, Resident of village- Badhaiyabag, P.S.- Sasaram (M), Distt.- 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, Sasaran, Distt.- Rohtas

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 10470 of 2015

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1. Rakesh Kumar Chaudhary, son of Jagdish Chaudhary, Resident of village0
Mujnu, P.S.- Nokha, 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-Authorized Officer, Rohtas Forest Division, Sasaram, District- Rohtas.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 10523 of 2015

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1. Lalan Kumar, son of Mahendra Singh, Resident of Village- Marajhiya, P.S.-
Nasriganj, District- Rohtas.

.... Petitioner/s

Versus

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

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 10997 of 2015

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1. Ramjee Prasad Son of Lakhan Arya Resident of village - Junior, P.S. Hilsa,
District - Nalanda

.... 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, District - Rohtas

.... Respondent/s

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Appearance :

(In CWJC No. 8835 of 2015)

For the Petitioner/s : Mr. Rajani Kant Singh, Adv.

For the Respondent/s : Mr. S.K.MANDAL, S.C.24

(In CWJC No. 9715 of 2015)

For the Petitioner/s : Mr. Rajani Kant Singh, Adv.

For the Respondent/s : Mr. Nasim Yahya, G.P.13

(In CWJC No. 10445 of 2015)

For the Petitioner/s : Mr. Rajani Kant Singh, Adv.

For the Respondent/s : Mr. Sanjay Pandey, G.P.21

(In CWJC No. 10470 of 2015)

For the Petitioner/s : Mr. Angad Kunwar, Adv.

For the Respondent/s : Mr. Raju Giri, G.P.30

(In CWJC No. 10523 of 2015)

For the Petitioner/s : Mr. Shamsheer Bahadur Pandey, Adv.

For the Respondent/s : Mr. Purnendu Singh, G.P.27

(In CWJC No. 10997 of 2015)

For the Petitioner/s : Mr. Rajani Kant Singh, Adv.

For the Respondent/s : Mr. M.K. Singh, SC6

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 12-08-2016

Learned counsel for the parties are present. 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 disposal with the consent of the parties.

The petitioners in each of the writ petitions seek a direction to the Divisional Forest Officer, Rohtas Forest Division, Rohtas-cum-Authorized Officer under the 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 Forest Act and which has led to institution of the Forest Case which is now pending consideration in respective confiscation proceedings

before the Authorised Officer who happens to be the Divisional Forest Officer, Rohtas Forest Division, Rohtas.

Although learned counsel for the petitioners tried to question the alleged seizure on merits but considering that the matter is pending consideration in the respective confiscation proceedings, this Court would refrain from expressing any opinion thereon.

The contention advanced by the learned counsel for the respective petitioners in support of their prayer for provisional release of the vehicles 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 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.8835 of 2015:



In this case the vehicle of the petitioner bearing Registration No.BR01GA/9739 was seized on allegation of transporting forest produce without any supportive papers giving rise to Forest Case No. 44 of 2015 which has led to registration of Confiscation Case No.93 of 2015 pending adjudication before the Divisional Forest Officer – cum- Authorised Officer, Rohtas Forest Division, Rohtas at Sasaram.

(2) C.W.J.C. No.9715 of 2015:

In this case the vehicle of the petitioner bearing Registration No.BR24G/9964 was seized on allegation of transporting forest produce without any supportive papers giving rise to Forest Case No. 54 of 2015 which has led to registration of Confiscation Case No.113 of 2015 pending adjudication before the Divisional Forest Officer – cum- Authorised Officer, Rohtas Forest Division, Rohtas at Sasaram.

(3) C.W.J.C. No.10445 of 2015

In this case the vehicle of the petitioner namely New Holland loader cum Tractor of 3630 Model 2212, Engine No. 062043N, Chasis No. 2161747 was seized on allegation of transporting forest produce without any supportive papers giving rise to Forest Case No. 58 of 2012 which has led to registration of Confiscation Case No.48 of 2012 pending adjudication before the Divisional Forest Officer – cum- Authorised Officer, Rohtas Forest Division, Rohtas at Sasaram.

(4) C.W.J.C. No.10470 of 2015



In this case the vehicle of the petitioner bearing Registration No.UP67B/5591 was seized on allegation of transporting forest produce without any supportive papers giving rise to Forest Case No. 57 of 2015 which has led to registration of Confiscation Case No.121 of 2015 pending adjudication before the Divisional Forest Officer – cum- Authorised Officer, Rohtas Forest Division, Rohtas at Sasaram.

(5) C.W.J.C. No.10523 of 2015

In this case the vehicle of the petitioner bearing Registration No.BR24G/4516 was seized on allegation of transporting forest produce without any supportive papers giving rise to Forest Case No. 58 of 2015 which has led to registration of Confiscation Case No.128 of 2015 pending adjudication before the Divisional Forest Officer – cum- Authorised Officer, Rohtas Forest Division, Rohtas at Sasaram.

(6) C.W.J.C. No.10997 of 2015

In this case the vehicle of the petitioner bearing Registration No.BR21B/0892 was seized on allegation of transporting forest produce without any supportive papers giving rise to Forest Case No. 69 of 2009 which has led to registration of Confiscation Case No.33 of 2009 pending adjudication before the Divisional Forest Officer – cum- Authorised 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 Authorised 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-Authorised Officer under the Forest Act, 1927 in seisin of the respective confiscation cases which are subject matter of the present proceedings to release the respective vehicles in favour of the petitioners within four weeks of the receipt/production of a copy of the order subject to the fulfillment of the following conditions:

(a) The petitioner shall produce 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- Authorised Officer, Rohtas at Sasaram which shall neither be in the form of cash nor bank guarantee.

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

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

(Jyoti Saran, J)

Bibhash/-

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CAV DATE	
Uploading Date	17.8.16
Transmission Date	