

## IN THE HIGH COURT OF JUDICATURE AT PATNA

### Civil Writ Jurisdiction Case No.18311 of 2015

Sitaram Singh, S/o - Pyari Singh, R/o- Mohalla - Qt. No. C/43, Yadu Nandan Nagar, Tifra Bilashpur, P.S. & District - Bilaspur, Chhatisgarh.

.... .... 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 Authorised Officer cum Divisional Forest Officer, Rohtas, Sasaram.
5. The District Forest Officer, Rohtas, Sasaram.
6. The Range Officer, Sasaram Forest Area at Sasaram.
7. The Forester, Tilauthu Cum Darigaon Forest Circle, District - Rohtas.

.... .... Respondent/s

With

### Civil Writ Jurisdiction Case No. 19368 of 2015

Vikash Kumar Singh, S/o Kamlesh Singh, R/o Village- Sohwaliya Khurd, P.S- Kargahar, 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 Area at Sasaram.
7. The Forester, Tilauthu Cum Darigaon Forest Circle, District- Rohtas.

.... .... Respondent/s

#### Appearance :

(In CWJC No.18311 of 2015)

For the Petitioner/s : Mr. Uma Shankar Singh

For the Respondent/s : Ms. Smriti Singh, AC to AAG-10

(In CWJC No.19368 of 2015)

For the Petitioner/s : Mr. Uma Shankar Singh

For the Respondent/s : Mr. Raghvendra Kumar, SC-22

**CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN**

**ORAL JUDGMENT**

**Date: 16-09-2016**

Learned counsel for the parties are present.

Since in both the 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 both 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 both the cases the vehicle of the 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 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.18311 of 2015:**

In this case the vehicle of the petitioner bearing Registration No.CG-10C/8465 was seized on allegation of transporting forest produce without any supportive papers giving rise to Nokha P.S. Case No.5 of 2015 which has led to registration of Confiscation Case No.182 of 2015 pending adjudication before the Divisional Forest Officer –cum-Authorised Officer, Rohtas Forest Division, Rohtas at Sasaram.

(2) **C.W.J.C. No.19368 of 2015:**

In this case the vehicle of the petitioner bearing Registration No.JH-02H-7545 was seized on allegation of transporting forest produce without any supportive papers giving rise to Forest Case No. 94 of 2015 which has led to registration of Confiscation Case No.189 of 2015 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, the two writ petitions are disposed of.

**(Jyoti Saran, J)**

SKPathak/-

|                   |            |
|-------------------|------------|
| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
| Uploading Date    | 19-09-2016 |
| Transmission Date | NA         |