

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5519 of 2018

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Ajay Kumar, Son of Abdesb Prasad, Resident of Keur, P.S.-Hulashganj,
District- Jehanabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Mines and Geology Department,
Government of Bihar, Patna.
2. The Assistant Director, Mines and Geology Department, Nalanda
3. The Mines Inspector, District Mines Office, Nalanda

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. N. K. Agrawal, Sr. Advocate Mr. Anujit Sinha, Adv.
For the State	:	Mr. Sunil Kumar Mandal -SC-3 Ms. Neelam Kumari, AC to SC-3
For the Deptt. Of Mines	:	Mr. Naresh Dikshit, Adv. Mr. Brij Bihari Tiwary, Adv.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date : 12-04-2018

The matter has been taken out of turn with consent of
learned Counsels for the parties.

Heard learned Counsel for the petitioner and learned
Special P. P. Mines and Geology Department, Govt. of Bihar.

Basically, the prayer made in the writ application is for
a direction to release the truck bearing Registration No. BR9C-
7958, which has been seized in connection with Islampur P.S.



Case No. 20 of 2018, registered under Sections 379 and 471 of the Indian Penal Code, Rules 4 and 40 the Bihar Minor Mineral Concession Rules, 1972 and Section 8(d) of the Bihar Minerals (Prevention of illegal Mining, Transportation and Storage) Rules, 2003.

It is well settled law that when there is efficacious alternative remedy available under the law, the High Court restrains to exercise the discretionary jurisdiction conferred under Article 226 of the Constitution of India.

Learned Sr. Counsel for the petitioner seeks permission to withdraw the writ application with a liberty to file appropriate application with a prayer for release of the truck in question under Section 451 of the Code of Criminal Procedure within a period of one week of receipt of a copy of the order.

In the circumstances, the present writ application is permitted to be withdrawn with the liberty aforementioned.

It is expected from the learned Court concerned to dispose of the application, in case the same is filed, for release of the truck in question, within a period of three weeks from the date of filing of such application, keeping in view the fact that there is no use of keeping the vehicle in the open air to rot in view of the ratio laid down in the case of *Sunderbhai Ambalal Desai Vs. The State of Gujarat*



reported in (2002) 10 SCC 283 and also in the case of *General Insurance Council and Others. Vs. The State of Andhra Pradesh and Ors.* Reported in (2010) 6 SCC 768.

Accordingly, the writ application is disposed of as withdrawn.

(Dinesh Kumar Singh, J)

Ashwini/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

