

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.12776 of 2016**

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Brij Kishore Singh @ Braj Kishore Singh, S/o Harbansh Singh, resident of  
Village- Bansa, P.S.- Sasaram M, Distt- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Forest and Environment, Bihar,  
Patna.
3. The Collector, Rohtas at Sasaram,
4. The Authorised Officer-cum-Divisional Forest officer, Rohtas at Sasaram.

... .. Respondent/s

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**Appearance :**

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|----------------------|---|-----------------------------------------------------------------------|
| For the Petitioner/s | : | Mr. Ravi Shankar Sahay, Advocate.<br>Mr. Chandra Mohan Jha, Advocate. |
| For the State        | : | Mr. Niraj Kumar Sinha, A.C. to PAAG-2                                 |

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**CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA**  
**ORAL JUDGMENT**

**Date : 19-04-2019**

1. This writ application has been filed for quashing the order dated 22.4.2016 passed by the Principal Secretary, Department of Forest and Environment, Patna, in Forest Revision No. 5 of 2016 which was dismissed on the ground of limitation without going into the merit of the case. The said revision was preferred against the order passed by the Collector Rohtas at Sasaram in Forest Confiscation Appeal No. 92 of 2013 affirming the order dated 22.10.2013 passed by the Authorised Officer-cum-Forest Divisional Officer, Rohtas, in Confiscation Case No. 35/2012(M) arising out of Sasaram (M) P.S. Case No. 761 of 2012.



2. Heard Mr.Ravi Shankar Sahay, learned counsel for the petitioner and Mr. Niraj Kumar Sinha, A.C. to PAAG-2, counsel appearing on behalf of the State.

3. Counsel for the petitioner submits that tractor/trailer of the petitioner was seized by the Confiscating Authority on the ground that the same was indulged in illegal mining along with other vehicles.

4. As per First Information Report filed vide Sasaram (M) P.S. Case No. 761 dated 4.9.2012, the informant along with other Police party, on the direction of the Member Secretary (Mines), raided Karvandia and Fazilpur forest protected area. It is alleged that other miscreants managed to run away, but amongst them, four persons were arrested. Several articles like JCB machines, Tractors and other equipment were sized. The Tractor of this petitioner with Compressor and Trailer were also seized.

5. The authority initiated Confiscation Proceeding vide Confiscation Case No. 35/2012 (M). The petitioner appeared and filed show cause with specific assertion that vehicle of the petitioner was duly registered whose number was BR-24F-7834 bearing Engine No. 4395F8. The aforesaid vehicle was standing outside the house of the petitioner without attachment with the trailer. The tractor had gone for servicing. The tractor had no



specialization with the Hydrolic system. Since house of the petitioner is situated near forest area, the authority dragged the tractor of the petitioner by attaching trailer and pulled out the tractor/trailer of the petitioner showing the same involved in illegal mining.

6. Seizure list has been prepared. Counsel for the petitioner has pointed out Sl. No. 13 of the seizure list which shows that empty tractor/trailer of the petitioner was seized by the Confiscating Officer. The Confiscating Officer has ordered for confiscation of the tractor of the petitioner by order dated 22.10.2013.

7. Counsel for the petitioner submits that petitioner filed Appeal vide Forest Appeal No. 92 of 2013 which was dismissed on 4.8.2015. Thereafter, revision was filed before the Revisional Authority vide Revision Case No. 5 of 2016, which was dismissed on the ground of limitation. He further submits that during enquiry before the Confiscating Officer, total five witnesses have been produced on behalf of the petitioner who have stated that tractor of the petitioner was standing in front of house of the petitioner. On behalf of the State, only one witness, namely, Niraj Kumar Singh who was posted as Forester has been examined. He has stated that he got information on telephone that illegal mining



is going on in Protected Forest area. The raid was conducted after surrounding the area and 28 vehicles were seized. The raid continued from 9:00 a.m. to 1:30 p.m. which is apparent from the seizure list. This witness has denied the suggestion that vehicle of the petitioner was not seized from the protected forest area.

**8.** Counsel for the State has submitted that tractor/trailer of the petitioner was confiscated because it was found indulging in illegal mining.

**9.** This Court has perused the order of the Authorised Officer-cum-Divisional Forest Officer, Rohtas at Sasaram as contained in Annexure-2 as well as the statement of witnesses examined on behalf of the petitioner and state. During proceeding, all the witnesses examined on behalf of the petitioner have stated that vehicle of the petitioner was standing in front of house of the petitioner. It has wrongly been seized because the house of petitioner is situated at a distance of 1 Km. from the protected forest area.

**10.** From the seizure list it appears that nothing was found loaded on the alleged tractor of the petitioner. The Confiscating Officer has merely on conjecture and surmises, ordered for confiscation of the vehicle of the petitioner. The aforesaid order was affirmed by the Appellate Authority in



mechanical manner and Revision Case has been dismissed on the ground of limitation.

**11.** Therefore, the impugned orders as contained in Annexure-2, 3 and 4 suffers from illegality and they are hereby set aside.

**12.** The Authorised Officer cum Divisional Forest Officer, Rohtas at Sasaram, is directed to release the tractor/trailer of the petitioner as described in his order dated 22.10.2013 within a period of 15 days from the date of receipt/production of this order on production of valid papers in support of ownership of the vehicle in question.

**13.** This writ application is accordingly allowed.

**(Sanjay Priya, J)**

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