

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16280 of 2016

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Baiju Kumar S/o- Late Laxmi Narayan, Resident of Village- Amratalab, P.S.-
Sasaram M, District- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary Forest and Environment Department,
Govt. of Bihar at Patna.
2. The Secretary, Forest and Environment Govt. of Bihar at Patna.
3. District Magistrate, Rohtas at Sasaram.
4. The Divisional Forest Officer Cum Authorised Officer, Rohtas at Sasaram.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Uma Shankar Singh, Advocate. Mr. Dheeraj Kumar, Advocate.
For the Respondent/s	:	Ms. Ratna Kumari, A.C. to PAAG-2

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 15-05-2019

Heard Mr. Uma Shankar Singh, learned counsel for the
petitioner and Ms. Ratna Kumari, A.C. to PAAG-2 counsel appearing
on behalf of the State.

This writ application has been filed for issuance of direction
to Respondent No. 4 to release seized Truck of the petitioner bearing
Registration No. BR-24-G-7487 in connection with Forest Case No. 50
of 2013 confiscated in Confiscation Case No. 98 of 2013 during
pendency of the instant writ application or till final disposal of Forest
Case No. 50 of 2013 pending in the court of Chief Judicial Magistrate,
Rohtas at Sasaram.

Counsel for the petitioner submits that petitioner has
produced valid Challan before Confiscating Authority (Respondent No.



4) but the same was not accepted. The Confiscating Authority has passed the order without looking into the Challan. He further submits that seizure was not made from the protected forest area rather the same was made from Sasaram Bikramganj Road near Mani Petrol Pump.

Learned counsel for the State submits that it is mentioned in the Appellate order as well as Revisional order that several discrepancies were found in the Challan and, therefore, the same was not accepted by the Authority. He further submits that driver of the vehicle fled away leaving the vehicle in question which also created doubt of not holding valid challan by him.

This Court after perusing the orders as contained in Annexures-2 and 3 finds that vehicle of the petitioner was seized from Sasaram Bikramganj Ara Road near Mani Petrol Pump and not from any protected Forest area. It further appears that petitioner produced valid Challan with respect to stone metal loaded on the vehicle, but in spite of that the same was disbelieved by the authority pointing out various discrepancies in the aforesaid Challan. The aforesaid Challan was never verified by the Respondent No. 4 to ascertain its genuineness.

From the impugned order it appears that Challan was disbelieved merely on surmises on the ground that there were several discrepancies in entry on the Challan. The officials have doubted its genuineness on flimsy grounds.

This Court finds that Respondent Nos. 2, 3 and 4 while passing impugned orders have not considered the case of the petitioner



in right perspective. The vehicle of petitioner was illegally confiscated without looking into genuineness of Challan. In such circumstances, orders contained in Annexures-2, 3 and 4 of the writ application are not in accordance with law and the same are hereby set aside.

The Respondent No. 4 i.e. the Divisional Forest Officer-cum-Authorized Officer, Rohtas at Sasaram, is directed to release Truck of the petitioner bearing Registration No.BR-24-G-7487 within a period of four weeks from the date of receipt/production of a copy of this order after proper verification of the relevant documents. The petitioner will file affidavit that he will produce the vehicle in question as and when required by the trial court in pending Forest Case if any, and will not dispose of the vehicle till disposal of Forest Case.

This writ application is accordingly allowed.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	27/05/2019
Transmission Date	N.A.

