

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16245 of 2016

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Vinay Kumar Singh S/o- Upendra Singh, Resident of Village- Jamuhar, P.S.-
Dehri, District- Rohtas.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Secretary, Forest and Environment Department 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.
For the Respondent/s : Mr. Sanjay Kumar, A.C. to SC-15.

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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 Mr. Sanjay Kumar, A.C. to SC-15 counsel
appearing on behalf of the State.

This writ application has been filed for release of the
seized Mahindra Tractor of the petitioner bearing Registration
No. BR-24-D-3070 in connection with Forest Case No. 16 of
2012 arising out of Confiscation Case No. 11/2012 (Q), during
pendency of the instant writ application or till final disposal of
Forest Case No. 16 of 2012 pending in the court of Chief Judicial
Magistrate, Rohtas at Sasaram.

Counsel for the petitioner submits that petitioner is
owner of the vehicle bearing Registration No. BR-24-D-3070.



The aforesaid vehicle has been seized on 26.2.2016 in the Fazilpur protected Forest area and complaint has been made before the Chief Judicial Magistrate, Rohtas. The Confiscation Case No. 11 of 2012 (Q) was also initiated by Respondent No. 4 with respect to the seized vehicle in Forest Case No. 16 of 2012. The petitioner aggrieved by the order dated 15.10.2013 passed by the Divisional Forest Officer cum Authorized Officer, Rohtas at Sasaram, (Respondent No. 4) has filed Forest Appeal No. 80 of 2013 before the District Magistrate, Rohtas (Respondent No. 2) which was dismissed by order dated 12.6.2015 without considering the case of the petitioner. Thereafter, the petitioner filed Revision Case vide Revision Case No. 30 of 2015 before the Secretary, Forest Department (Respondent No. 2) which was also dismissed on 16.5.2016.

Counsel for the petitioner submits that petitioner was having lease in Fazilpur protected Forest Area till 27.2.2012 and the vehicle and other articles of the petitioner were lying on the aforesaid Mining area. He further submits that seizure has been made on 26.2.2012 one day before expiry of lease period. Counsel for the petitioner submits that petitioner has taken this point before the Confiscating Authority, but he did not consider the same and passed order of confiscation. The Appellate



Authority and Revisional Authority have also not considered the aforesaid point of the petitioner.

Counsel for the State has appeared and submitted that petitioner has not produced any lease document to show that he was having lease of Fazilpur Forest protected area.

This Court after perusing the impugned orders as contained in Annexures-2, 3 and 4 finds that vehicle of the petitioner was seized on the allegation that it was used for illegal mining. Petitioner has taken defence that it was lying in the area which comes under the mining area of lease which was valid till 27.2.2012. The vehicle has been seized on 26.2.2012. It further appears that there is no specific allegation by the authority concerned that the vehicle of the petitioner was found committing illegal mining or transporting the forest protected goods.

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 Mahindra Tractor of the petitioner bearing Registration No.BR-24-D-3076 within a period of two weeks from the date of



receipt/production of a copy of this order after proper verification of the documents. The petitioner will file affidavit that he will produce the vehicle in question as and when required by the trial court in the pending Criminal 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.

