

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16262 of 2016

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S. R. Construction, Prop. - P. Srinivas Rao, r/o D.N. 18915, Postal Colony MVP Colony, Vishakhapatnam, Andhrapradesh through Baiju Kumar, son of 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, Patna.
2. The Secretary, Forest and Environment, Govt. of Bihar Patna.
3. The District Magistrate, Rohtas at Sasarm
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. Ram Shankar Prasad, A.C. to G.P.-14.

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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. Ram Shankar Prasad A.C. to G.P. 14 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. AS19B-1840 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. The petitioner has challenged the aforesaid order in Confiscation Appeal No. 38 of 2014 which was dismissed by order dated 4.8.2015 and the same was affirmed by the



Revisional Court vide order dated 16.5.2016 in Forest Revision Case No. 32 of 2015.

Counsel for the petitioner submits that petitioner has produced valid Challan before Respondent No. 4. He 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.

From the order as contained in Annexures-2, 3, 4 it appears that petitioner has taken plea at all stage that he was having valid challan. The genuineness of Challan was never examined. The doubt was raised on the validity of Challan on flimsy grounds as mentioned in the order, which was merely surmises. It further appears that vehicle was not seized from the forest protected area rather it was seized at Sasaram Bikramganj Ara Road, near Mani Petrol Pump.

Counsel for the State has appeared and submitted that the Appellate Authority has mentioned in the impugned order that various discrepancies were found in the Challan. He has also submitted that driver of the vehicle fled away.

Counsel for the petitioner submits that petitioner was never given proper opportunity by the authority to place his case with regard to genuineness of 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 Annexure-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 Dumper of the petitioner bearing Registration No.BR-24-G-5213 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.

