

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.10471 of 2018**

**In**  
**Criminal Writ Jurisdiction Case No.856 of 2018**

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1. Amit Shukla, Son of Baikunth Shukla
  2. Baikunth Shukla, Son of Niwas Shukla, Both resident of Village Dubey Ke Saraiya, P.S. Chainpur, District- Kaimur at Bhabua.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Environment and Forest Department, Government of Bihar, Patna.
2. The District Magistrate, Kaimur at Bhabua.
3. The Superintendent of Police, Kaimur at Bhabua.
4. The Divisional Forest Officer cum Authorised Officer, Kaimur Forest Division, Bhabua, District Kaimur (Bhabua).
5. The Range Officer of Forest, Chainpur, Forest Range, District Kaimur at Bhabua.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Sanjay Kumar Tiwary, 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 : 01-04-2019**

1. Heard Mr. Sanjay Kumar Tiwary, learned counsel for the petitioners and Ms. Ratna Kumari, A.C. to PAAG-2 counsel appearing on behalf of the State.

2. This writ petition has been filed by the petitioners in the nature of certiorari for quashing the order dated 2.10.2017 passed by Principal Secretary, Environment of Forest Department, Government of Bihar, Patna, (Respondent No. 1) passed in Forest Revision Case No. 37 of 2015 as contained in Annexure-6 whereby and whereunder Respondent No. 1 has set aside the order



of Respondent No. 2 i.e. District Magistrate, Kaimur, at Bhabua, vide order dated 7.9.2015 passed in Forest Confiscation Appeal No. 01 of 2015-16 and affirmed the order dated 8.12.2014 passed in Forest Case No. 44F of 2012 (Forest Confiscation Case No. 36 of 2012) passed by Respondent No. 4 i.e. Divisional Forest Officer cum Authorised Officer, Kaimur Forest Division, Bhabua District, Kaimur at Bhabua by which the Respondent No. 4 has confiscated the tractor/trailer of the petitioners bearing Registration No. BR-45-6395, Chassis No. PY5038X009394, Engine No. PY3029D238237 whereas the District Magistrate (Respondent No. 2) has released the vehicle in question after order of payment of Rs.20,000/- as fine. Petitioners also pray for release of tractor/trailer in favour of the petitioners in connection with Confiscation Case No. 36 of 2012 (Forest Case No. 44F of 2012) to the satisfaction of Respondent No. 4 i.e. Divisional Forest Officer cum Authorised Officer, Bhabua.

3. Counsel for the petitioners submits that occurrence is alleged to have taken place on 30.5.2012 and tractor of the petitioners was seized by Police on 7.10.2012. Thereafter, confiscation proceeding was initiated.

4. From the written report it appears that the case has been filed by Forester making allegation that on 31.5.2012 while



he was on patrolling duty, he found one tractor loaded with Boulder without registration number. The Forester, Nauhatta, seized the aforesaid tractor with Boulder and prepared seizure list. Thereafter, while the tractor and trolley were brought to the premises of the Forest department, the owner of the tractor along with 25-30 persons started pelting stones on the Police Party. The Forester has filed written report with regard to it on 31.5.2012 upon which First Information Report has been lodged vide Chainpur P.S. Case No. 81 of 2012.

5. The aforesaid tractor of the petitioners was seized by the Police in Chainpur P.S. Case No. 81 of 2012 on 7.10.2012 at 8:20 p.m while the same was taken for servicing and, thereafter, confiscation proceeding has been initiated.

6. This Court finds from perusal of the original order passed by the Divisional Forest Officer in confiscation Case No. 36 of 2012 that order of confiscation has been passed on the ground that the tractor/trailer in question seized by the Police in Chainpur P.S. Case No. 81 of 2012, was located by the Forester on 31.5.2012 loaded with Boulder of Forest Department.

7. From the aforesaid order it appears that there is no any valid proof shown by the Department that Engine and Chassis



number of tractor were properly taken note of on 31.5.2012 and the seized tractor is same.

**8.** Petitioners have filed Appeal against the aforesaid order before the Appellate Authority. The Appellate Authority by order dated 7.9.2015 has directed to release the tractor of the petitioners after making payment of Rs.20,000/-. The Department has challenged the aforesaid order before the Revisional Authority and Revisional Authority by order dated 3.10.2017 has set aside the order of the Appellate Authority dated 7.9.2015 and has affirmed the order of the Divisional Forest Officer, dated 8.12.2014 directing confiscation of the aforesaid tractor.

**9.** From the Revisional order it appears that vehicle was seized after four months from the date of instant case i.e. on 31.5.2012 vide Chainpur P.S. Case No. 81 of 2012 while the vehicle was going for its servicing. The Forester has claimed that the tractor had gone in the Forest area on 31.5.2012.

**10.** This Court finds that the Revisional Authority has failed to properly consider the case of the petitioners and merely on guess and surmises has affirmed the order of Confiscating Officer.

**11.** Therefore, the order passed by Respondent No. 4 i.e. Divisional Forest Officer-cum-Authorised Officer, Kaimur Forest



Division, Bhabua, as contained in Annexure-3 along with the order of the Appellate Authority (Annexure-4) as well as Revisional Authority (Annexure-6), are hereby set aside.

**12.** The writ application is accordingly allowed.

**13.** The Divisional Forest Officer is directed to release the tractor and trailer of the petitioners within 15 days from the date of receipt of copy of this order on filing relevant documents i.e. owner book of the aforesaid tractor.

**14.** It is made clear that any criminal case pending with regard to aforesaid occurrence, will not be affected by this order. The petitioners will file affidavit that he will produce the vehicle as and when required in such criminal case.

**(Sanjay Priya, J)**

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