

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15222 of 2018

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Alok Kumar Singh, Son of Late Ramjee Singh, resident of Mohalla- 6, Ambarpur Colony, Sitapur Road, Lucknow U.P. At present resident of Village- Dahiyad, P.S. Sasaram M, District- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Environment and Forest, Government of Bihar, Patna.
2. The Principal Secretary, Department of Environment and Forest, Government of Bihar, Patna.
3. The District Magistrate, Rohtas at Sasaram.
4. The Authorized Officer-cum- Divisional Forest Officer, Rohtas Forest Division, Sasaram, District- R
5. The Forest Range Officer, Darigaon Forest Region, Sasaram, District- Rohtas.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajani Kant Singh, Advocate.
For the State : Mr. Lokesh Kumar Singh, A.C. to AAG-13.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 20-08-2019

1. This writ petition has been filed for issuance of an appropriate writ in the nature of certiorari for quashing the order dated 21.6.2018 passed by learned Principal Secretary, Department of Environment and Forest, Government of Bihar, Patna, in Forest Revision Case No. 02 of 2018 as contained in Annexure-5 by which the learned Principal Secretary, Department of Environment and Forest, Govt. of Bihar, Patna, has dismissed the revision application of the petitioner affirming the order dated 18.7.2017 passed by learned District Magistrate, Rohtas at Sasaram, in Forest Confiscation Appeal Case No. 27 of 2017



(Annexure-4). Petitioner has also made prayer in this writ petition for quashing the order dated 5.10.2015 passed by learned Authorized Officer-cum-Divisional Forest Officer, Rohtas Forest Division, Sasaram, in Confiscation Case No. 148 of 2015(D) as contained in Annexure-3 arising out of Forest Case No. 69 of 2015 by which truck of the petitioner bearing Registration No. UP 32DN/8636 has been confiscated and further for issuance of direction to the Respondent No. 4 i.e. the Authorized Officer-cum-Divisional Forest Officer, Rohtas Forest Division, Sasaram, to release the Truck bearing Registration No. UP-32DN/8636 in favour of petitioner within specified period.

2. Counsel for the petitioner submits that petitioner is owner of Commercial Truck bearing Registration No. UP 32DN/8636 which was loaded with stone chips on 2.8.2015 from the business premises of *M/s. Jai Maa Bhawanti Construction, Chaparwar, Palamu (Jharkhand)*, Proprietor, Vinod Singh, for which, valid transport Challan was issued on 2.8.2015. Photocopy of aforesaid Challan has been enclosed as Annexure-1. The aforesaid truck of the petitioner was seized by the official of Forest Department during patrolling duty while the truck loaded with stone chips was going towards Sasaram Ara Road.



3. Counsel for the petitioner submits that admittedly the truck of the petitioner was found loaded with stone chips and the same was seized near *Jakhni Pakki Road* situated at Sasaram-Ara road under Nokha Police Station. He further submits that the aforesaid truck has not been seized under protected forest area. The respondents failed to appreciate that the truck of the petitioner was loaded with stone chips from business premises of *M/s. Jai Maa Bhawani Construction, Chaparwar, Palamu (Jharkhand)*, Proprietor Vinod Singh, for which, valid transit challan was issued.

4. Counsel for the petitioner further submits that there are special provisions provided under Section 40(2) of the Minor Mineral Concession Rules, 1972, to take action for unauthorized extraction and removal of minor minerals. The stone chips are minor minerals in terms of Section 3(e) of Mines & Minerals (Development and Regulation) Act, 1957. The Provisions of Section 33 of Forest Act shall not apply in this case.

5. Counsel for the State has appeared and submitted that Revisional Authority has mentioned that revisionist did not possess valid challan or purchase receipt for loaded stone chips under Section 2(4)(6)(iv) of the Indian Forest Act, 1927. Rocks and Minerals brought from forest are forest



produce and mining of stone from protected forest area is a forest offence under Section 33 of the said Act.

6. This Court on perusal of Section 33 of the Forest Act finds that provisions of Section 33 of Forest Act is not applicable in the instant case. Similarly, Sections 41 and 42 of the Forest Act also shall also not apply in this case.

7. The stone chips admittedly are not forest produce rather it comes under minor minerals. Section 40(2) of Bihar Minor Mineral Concession Rules, 1972 provides penalty for unauthorized extraction and removal of minor minerals.

8. Therefore, this Court is of the view that order dated 5.10.2015 passed by the District Forest Officer, Rohtas at Sasaram, in Confiscation Case Nos. 148/15(D) as contained in Annexure-3, order dated 18.7.2017 passed by the Appellate Authority in Forest Appeal No. 27 of 2017 and the Revisional order dated 21.6.2018 passed by the Principal Secretary, Environment and Forest Department, Government of Bihar, are not in accordance with law.

9. Accordingly, the aforesaid orders as contained in Annexure-3, 4 and 5 are hereby set aside.

10. The Respondent No. 4 i.e. the Authorized Officer-cum-Divisional Forest Officer, Rohtas Forest Division,



Sasaram, Distt. Rohtas, is directed to release the truck of the petitioner bearing registration No. UP-32-DN-8636 within a period of 15 days from the date of receipt/production of copy of this order after proper verification of the relevant documents with regard to ownership of truck of petitioner. The petitioner will file affidavit that he will produce the vehicle as and when required by the trial court or the confiscating authority and shall not dispose off the vehicle till final disposal of the Forest Case.

11. This writ petition is accordingly allowed.

(Sanjay Priya, J)

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AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	31/08/2019
Transmission Date	N.A.

