

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18151 of 2016

1. Mukesh Kumar
2. Rakesh Kumar Both S/o Gopal Prasad R/o Village- Karwandia, 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 at Patna.
3. District Magistrate, Rohtas at Sasaram.
4. The Divisional Forest Officer cum Authorised Officer, Rohtas at Sasaram.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Uma Shankar Singh
For the Respondent/s : Ms. Ratna Kumari, paag2

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date : 05-08-2019

Heard the learned counsel for the petitioners and the State.

The instant writ petition is directed for the following reliefs:

(i) For issuance of an appropriate writ to quash the order dated 16.05.2016 passed by the Secretary, Forest and Environment Department, Govt. of Bihar (Respondent No. 2) in Revision Case No. 33/2015 (contained in Annexure- 4) and direct Respondent No. 2 to decide the revision in accordance with law.

(ii) For issuance of an order directing Respondent



No. 2 to dispose the Confiscation proceeding against the petitioners' vehicle in accordance with law.

(iii) For issuance of an appropriate writ/order/direction, directing the Respondent authorities or Respondent No. 4 to release provisionally the seized vehicle bearing Model No. S-2212 and Sl. No. R12C100047 in connection with Forest Case No. 56/2012 during pendency of present writ petition or till the final disposal of Forest Case No. 56/2012 pending in the court of Chief Judicial Magistrate, Rohtas, Sasaram.

The brief fact of the case is that petitioners are owner of the vehicle JCB New Holland Loader-SECRJMT having Model No. S-2212 and Sl. No. R12C100047, as mentioned at item no. 6 in the seizure-list. Aforesaid vehicle of petitioners has been subjected to Forest Case No. 56 of 2015 and has been seized alleging that the same has been found in Forest Area on 03.11.2012. A Complaint Case to this effect along with seizure has been filed in the Court of C.J.M., Rohtas, Sasaram. Confiscation Case No. 46 of 2012 was also started before Respondent No. 4 with respect to seized vehicle in Forest Case No. 56 of 2012. Claim of petitioners in confiscation proceeding was finally disposed off on 22.10.2013 against the petitioners by Respondent No. 4 and their vehicle was illegally confiscated. Thereafter petitioners moved in appeal before



Respondent No. 3 aggrieved by the order of Respondent No. 4 dated 22.10.2013 by way of Forest Appeal No. 95 of 2013, which was dismissed by order dated 30.06.2015. The petitioners filed Revision Case No. 33/2015 before the Secretary Forest Department (Respondent No. 2), which was rejected on 16.05.2016.

Learned counsel for petitioners has submitted that vehicle of petitioners was standing inside the boundary of their house. It was not in running condition. It is further submitted that vehicle of petitioners was taken away by the Forest Department officials.

It is alleged that on the date of occurrence vehicle of petitioners was found loading forest produce from the forest area. Total 11 vehicles including the vehicle of petitioners were seized by the Confiscating Officer.

The Revisional Authority has dismissed the revision petition on the ground that appellate authority has come to the conclusion that vehicle of petitioners was in running condition.

Learned counsel for petitioners has submitted that such finding is not sustainable because no driver of the vehicle of petitioners was apprehended on the spot. There is no any evidence brought by the authorities to show that vehicle was in running condition and driver was also apprehended on the spot.



Learned counsel for the State has submitted that aforesaid order has been passed after considering the relevant facts. There is no illegality in the order.

This Court after looking into order passed by the Revisional Authority finds that it has affirmed the order of the Collector passed in Confiscation Appeal No. 95/2013 in mechanical manner. The Collector had also only after relying on the finding given by the Confiscating Officer, passed the order dated 30.06.2015.

It appears that none of the Court has taken into consideration the case of petitioners that the vehicle of petitioners was not in running condition. It was standing in the boundary of the house of petitioners. It was not involved in any manner in loading or unloading or breaking the stone from the forest area. The vehicle of petitioners is lying in open sky since the date of confiscation (i.e. 03.11.2012) and is getting damaged.

In such circumstances, this Court finds that the orders dated 22.10.2013, 30.06.2015 and 16.05.2016 as contained in Annexures- 2, 3 and 4 are not in accordance with law. They are accordingly set aside.

This writ petition is accordingly allowed.

Respondent no. 4 is directed to release the vehicle of



petitioners within two weeks from the date of receipt/production of copy of this order after proper verification of all the relevant documents produced by the petitioners with regard to ownership and registration of vehicle in favour of petitioners.

The petitioners will file affidavit before the authority that they will produce the vehicle as and when required in Forest Case No. 56/2012 and shall not dispose off the same during pendency of aforesaid criminal case.

(Sanjay Priya, J)

rakhi/-

AFR/NAFR	
CAV DATE	N.A.
Uploading Date	08.08.2019
Transmission Date	

