

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2942 of 2016

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Naresh Yadav Son of Sri Tunnu lal Yadav Resident of Village- Bardiha, P.S
Wazirganj, Tankuppa, O.P, District Gaya.

... .. Petitioner/s

Versus

1. The State Of Bihar, through the Secretary, Environment & Forest Department,
Govt. of Bihar, Patna.
2. The Principal Chief Conservator of Forest, Bihar, 4th Floor, Technology
Bhawan, Bailey Road, Patna.
3. The District Magistrate-cum-Appellate, Authority, Gaya.
4. The Divisional Forest Officer, Gaya forest Division, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vinay Mistry
For the Respondent/s : Mr. Tej Pratap Singh AC to AAG -13

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 21-02-2019

Heard learned counsel for petitioner and the State.

The petitioner is aggrieved by order dated 30.7.2015 as contained in Annexure-3 passed by the District Magistrate Gaya in Forest Appeal Case No. 195 of 2010 whereby the appeal filed on behalf of the petitioner has been rejected on the ground of non parvee without considering the merit of the case.

A counter affidavit has been filed on behalf of respondent no.4 stating therein that petitioner remained absent continuously on five dates and therefore appeal was dismissed considering that petitioner has no interest in the aforesaid appeal.

Learned counsel for petitioner submits that he has filed



the appeal before the District Magistrate Gaya against the order dated 8.12.2010 passed by the Divisional Forest Officer Gaya vide Confiscation case no. 19 of 2010 by which his pick up bearing Registration no. BR-2H-5684 loaded with Chiran Patra of soft wood about 60 Cft. has been confiscated on the ground that same was without transit permit U/s 41 and 42 of the Indian Forest Act.

Learned counsel for petitioner further submits that he has filed Cr.W. J.C no. 596 of 2010 before this Hon'ble Court for release of the vehicle which was allowed by order dated 27.8.2010 subject to the result of the confiscation case as and/or the criminal proceedings. It was directed in the aforesaid order by the Hon'ble Court that Divisional Forest Officer, Gaya will dispose of the confiscation proceeding within four months. Learned counsel for the petitioner further submits that after disposal of the confiscation proceeding the petitioner has filed the appeal before the Collector. The hearing of appeal on merit would be necessary for the ends of justice.

In such circumstances, order dated 30.7.2015 as contained Annexure-3 is hereby set aside. The Appellate Authority is directed to hear the appeal filed by the petitioner i.e. Forest Appeal Case No. 195 of 2010 on merit after affording



opportunity of hearing to the petitioner and other party and after looking into the relevant documents filed on behalf of the petitioner and other party within a period of three months from the date of receipt/communication of this order.

It is made clear that in the event the petitioner does not appear before the Appellate Authority within a period of one months from the date of this order, the Appellate Authority will be at liberty to pass appropriate order in accordance with law.

The writ application is disposed off.

(Sanjay Priya, J)

shyambihari/-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	25.2.2019
Transmission Date	

