

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16198 of 2016

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Anil Kumar, S/o Paras Nath Gupta, r/v-Karwandiya, P.S.-Sasaram, District-Rohtas.

... .. Petitioner/s

Versus

1. The State Of Bihar through Secretary Forest and Environment Department, Govt. of Bihar at Patna.
2. The Secretary, Forest and Environment, Govt. of Bihar at Patna.
3. District Magistrate, Rohtas at Sasaram
4. The Divisional Forest Officer-cum-Authorized Officer, Rohtas at Sasaram.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Uma Shankar Singh
For the Respondent/s	:	Mr. Sanjay Kumar Ac to SC-15

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 15-05-2019

Heard the learned counsel for the petitioner 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 04.12.2015 in Forest Revision Case No. 3 of 2015 passed by the Secretary, Forest and Environment Department, Govt. of Bihar (Respondent No. 2) (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 off the confiscation proceeding against the petitioner's JCB Machine in accordance with law, following the directions issued by this Hon'ble Court time to time.



(iii) For issuance of an appropriate writ/order/direction, directing the Respondent Authorities or Respondent No. 4 to release provisionally the seized machine bearing Engine No. H00002624 and Chasis No. 1485082C/2011 in connection with Sasaram (M) P.S. Case No. 761 of 2012 confiscated in Confiscation Case No. 35/2012 (U) during pendency of the instant writ petition or till final disposal of Sasaram (M) P.S. Case No. 761/2012 pending in the court of C.J.M., Rohtas, Sasaram.

The brief fact of the case is that petitioner is owner of the JCB Machine having Engine No. H00002624 and Chasis No. 1485082C/2011. Aforesaid machine of petitioner was seized alleging that the same has been found in Forest Area on 04.09.2012. F.I.R. was lodged bearing Sasaram (M) P.S. Case No. 761/2012 to this effect. Confiscation Case No. 35 of 2012(U) was also started before Respondent No. 4 with respect to seized machine in Sasaram (M) P.S. Case No. 761/2012. Claim of petitioner in confiscation proceeding was finally disposed off on 23.03.2013 against the petitioner by Respondent No. 4 and his JCB machine was confiscated. Thereafter petitioner moved in appeal before Respondent No. 3 aggrieved by the order of Respondent No. 4 dated 23.03.2013 by way of Forest Appeal No. 45 of 2013, which was dismissed by order dated 10.07.2014. The petitioner filed Revision Case No. 3/2015 before Respondent No.



2, which was also rejected on 04.12.2015. The JCB machine of petitioner is lying in open sky and is getting damaged.

Learned counsel for the State has submitted that machine has been seized from the Forest Area.

Learned counsel for the petitioner has submitted that there is no any allegation that aforesaid machine was used for illegal mining or illegal carriage of forest articles. It is further submitted that machine of petitioner has been recovered from Chat of Shiv Tola, not from the Protected Forest Area. The machine was standing there. The same has illegally been seized.

This Court after looking into impugned orders passed by Respondent Nos. 2, 3 and 4 finds that none of the authority have considered the case of petitioner that JCB machine of the petitioner was not seized from the Protected Forest Area.

This Court further finds that there is no allegation that aforesaid machine of petitioner was used for illegal mining.

Therefore, the orders dated 23.03.2013, 10.07.2014 and 04.12.2015 as contained in Annexures- 2, 3 and 4 are not in accordance with law. The same are hereby set aside.

This writ petition is accordingly allowed.

Respondent no. 4 is directed to release the machine of the petitioner within a period of fifteen days from the date of



receipt/production of this order after proper verification of all the relevant documents produced by the petitioner.

The petitioner will file affidavit that he will produce the machine as and when required in Sasaram (M) P.S. Case No. 761/2012 and shall not dispose off the same during pendency of aforesaid criminal case.

(Sanjay Priya, J)

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AFR/NAFR	
CAV DATE	N.A.
Uploading Date	21.05.2019
Transmission Date	

