

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16256 of 2016

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Sunil Kumar Chaudhary S/o Paras Nath Choudhary R/o Mohalla- Bhartiganj,
Sasaram, P.S.- Sasaram, 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

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Appearance :

For the Petitioner/s	:	Mr. Uma Shankar Singh, Advocate.
For the Respondent/s	:	Mr. Sarvesh Kr. Singh- AAG-13 Mrs. Sunita Kumari, A.C. to AAG-13.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 15-05-2019

Heard Mr. Uma Shankar Singh, learned counsel for the
petitioner and Mr. Sarvesh Kumar Singh, AAG-13 counsel
appearing on behalf of the State.

This writ application has been filed for issuance of
direction to Respondent No. 4 to release seized Dumper of the
petitioner bearing Registration No. BR-24-G-5213 in connection
with Forest Case No. 10 of 2014 arising out of Confiscation Case
No. 17 of 2014, during pendency of the instant writ application
or till final disposal of Forest Case No. 10 of 2014 pending in the
court of Chief Judicial Magistrate, Rohtas at Sasaram.

Counsel for the petitioner submits that petitioner is
owner of the vehicle (Dumper) bearing Registration No. BR-24-



G-5213. He further submits that vehicle of the petitioner was not confiscated from any protected forest area. He submits that as per Confiscation order dated 11.4.2014 passed by the Divisional Forest Officer cum Authorizsed Officer, Rohtas at Sasaram (Respondent No. 4) as contained in Annexure-3, it is mentioned that aforesaid vehicle was seized near Sasaram Toll Plaza at Kolkata-Delhi NH-02.

The case of the Forest Officer is that on 13.2.2014 during raid in Fazilpur Forest protected area, he saw one vehicle started running away loaded with stone metal. The vehicle was chased and ultimately was apprehended near Sasaram Toll Plaza at Kolkata-Delhi NH-02. It is further alleged that driver of the vehicle by using Hydraulic system, unloaded the metal stone loaded in the vehicle. It is alleged that 25 CFT Metal Stone was found loaded in the vehicle in question.

Counsel for the petitioner submits that vehicle of the petitioner was found empty. It is wrongly stated by the Forest Officer that 25 CFT metal was found loaded on the vehicle. He further submits that nature of Metal found on the vehicle has not been mentioned by the Respondents Authority. The authority has no where mentioned that recovered 25 CFT of Stone Metal on the vehicle was recovered from the forest protected area.



This Court finds that Respondent No. 4 while passing Confiscation order has not considered the case of the petitioner in right perspective and has illegally confiscated the vehicle (Dumper) of the petitioner. The Appellate Authority have affirmed the order of Confiscating Authority in mechanical manner. In such circumstances, orders passed by the authority as contained in Annexures-3, 5 and 6 of the writ application are not in accordance with law.

Counsel for the State has appeared and submitted that in the Revisional order it is mentioned that the vehicle was found loaded with stone metal from the forest protected area.

This Court finds that only vague statement has been made by the Appellate Authority and Revisional Authority in the impugned order that the stone metal of 25 CFT was of protected forest area. There is no description of the stone metal and no details about forest area from which they have been loaded.

In such circumstances, orders contained in Annexures-3, 5 and 6 to the writ petition are not in accordance with law and the same are hereby set aside.

The Respondent No. 4 i.e. the Divisional Forest Officer-cum-Authorized Officer, Rohtas at Sasaram, is directed to release Dumper of the petitioner bearing Registration No.BR-



24-G-5213 within a period of four weeks from the date of receipt/production of a copy of this order after proper verification of the relevant documents. The petitioner will file affidavit that he will produce the vehicle in question as and when required by the trial court and will not dispose of the vehicle till disposal of Forest Case.

This writ application is accordingly allowed.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	27/ 05/2019
Transmission Date	N.A.

