

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5120 of 2019

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Ram Kathin Yadav, S/o Late Kailash Yadav, R/o - Rahui, P.S- Rahui, Distt.-
Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Mining and Geology Department Govt. of Bihar, Patna.
2. The Principal Secretary Mining and Geology Department, Govt. of Bihar, Patna.
3. The Director general of Police Bihar, Patna.
4. The District Magistrate, Nalanda at Biharsharif.
5. The Superintendent of Police Nalanda at Biharsharif.
6. The District Mining Officer Nalanda at Biharsharif.
7. The Enforcement Officer Mining, Nalanda at Biharsharif.
8. The S.H.O. Silao, Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Dilip Kumar No. 1, Advocate.
For the Mines	:	Mr. Naresh Dixit, Spl. P.P. Mines. Mr. Brij Bihari Tiwari, Advocate.
For the State	:	Mr. Gyan Prakash Ojha, (GA-7) Mr. Abhishek Singh, A.C. to G.A.-7

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 16-04-2019

1. This writ application has been filed for issuance of direction to Respondents to release YUVO 475DI (Mahindra) Tractor bearing Registration No. BR21GA-8299 along with Trailer bearing Registration No. BR21GA-8717 to the petitioner which was seized by Respondent No. 7 and thereafter, the vehicle in question was handed over to respondent No. 8 for keeping in safe custody.



2. Heard Mr. Dilip Kumar, counsel for the petitioner, Mr. Naresh Dixit, counsel for the Mines and Mr. Gyan Prakash Ojha, G.A.-7 counsel appearing on behalf of the State.

3. Counsel for the petitioner submits that petitioner was having valid Challan for the loaded sand in the tractor/trailer. He is owner of the tractor/trailer with valid papers. The tractor/trailer has illegally been seized and has been kept in the Police Station.

4. Counter affidavit has been filed on behalf of Respondent Nos 4 and 6 wherein they have admitted that petitioner was holding valid Challan with UID No. 452676676911 dated 12.12.2019 issued by Mining and Geology Department, Government of Bihar.

5. It is mentioned in paragraph-6 of the counter affidavit that four tractors including tractor of the petitioner were handed over to Silao Police Station because the same were found overloaded with sand which is violation of Rule 3, 4 and 6 of Bihar Minerals (Prevention of Illegal Mining Transportation and Storage) Rule, 2003. It has been submitted in the counter affidavit that the tractor of the petitioner was intercepted during routine inspection being done by the respondents. After enquiry, it was



found that the tractor of the petitioner was loaded with 150 CFT of sand whereas the Challan shows the quantity to be 100 CFT.

6. Counsel for the petitioner submits that there is no any paper in support of submission of the counsel for the Respondents that the tractor was overloaded. The tractor/trailer of the petitioner has illegally been seized and kept at the Police Station. Counsel for the petitioner further submits that still no any case has been lodged.

7. In such circumstances, the Respondent No. 7 is directed to release the tractor of the petitioner mentioned as Sl. No. 2 bearing Registration No. BR21GA-8299 along with trailer bearing registration No. BR21GA-8717 within a period of two weeks after receipt/production of a copy of this order along with loaded sand if the same is available on the Tractor.

8. This writ petition is accordingly allowed.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	22/04/2019
Transmission Date	

