

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8574 of 2019

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Pawan Kumar Yadav, Son of Ram Jatan Yadav, Resident of Village- Ahopur,
Gangapur, P.S. Jansa, District- Varanasi, U.P.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Environment and Forest Department, Government of Bihar, Patna.
2. The Conservator of Forest, Gaya Circle, Gaya.
3. The Divisional Forest Officer, Gaya Forest Division, Gaya.
4. The District Magistrate-Cum-Appellate Authority, Gaya.
5. The Forester, Bhalua (Barachatti), District- Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vinay Mistry, Advocate.

For the Respondent/s : Mr. Tej Pratap Singh, A.T. to AAG-13.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date : 22-04-2019

1. Heard Mr. Vinay Mistry, learned counsel for the petitioner and Mr. Tej Pratap Singh, A.C. to AAG-13, learned counsel appearing on behalf of the State.

2. The present writ application has been filed seeking following reliefs:

“(i) For issuance of a writ in the nature of certiorari for quashing the seizure list dated 7.10.2017 (Annexure-P/4) prepared by the Forester, Bhalua (Barachatti), Distt. Gaya, whereby the Truck bearing Registration No.UP65FT-5561 loaded with “sand” has been seized in violation of Section 33(i)(a)(b), 33(c) and 63 of the Indian Forest Act (Bihar



Amendment Act, 1989) Act, 1927 as the “sand” neither comes within Schedule of the Bihar Forest Produce (Regulation of Trade) Act, 1984 nor the Forester is empowered to make entry, inspection, search and seizure under Section 52-D of the Indian Forest Act, 1927.

(ii) For issuance of a writ in the nature of mandamus holding entire consequential proceedings i.e. the confiscation order dated 9.2.2018 in Forest Confiscation Case No. 34 of 2017 (Annexure-P/7), the Appellate order dated 10.7.2018 in Forest Appeal Case No. 4 of 2018 and the pending Revision Case No. 26 of 2018 against the order dated 10.7.2018 are bad in law.

(iii) For issuance of a writ in the nature of Mandamus directing the Respondent No. 3 to release the Truck bearing Registration No. UP65T-5561 in favour of the petitioner in the facts and circumstances of the case”.

3. Counsel for the petitioner submits that the truck in question is liable to be released as the Forester is not authorized to make inspection, search and seizure under Section 52(D) of the Indian Forest Act, 1927, and as such, the seizure list is absolutely bad in law. He further submits that sand does not come within the purview of forest produce as specified in the Schedule under the



Bihar Forest Produce (Regulation of Trade) Act, 1984 and, therefore, sand loaded on the aforesaid Truck should not be seized by the Forester under the provisions of Indian Forest Act, 1927. Sections 33(1)(a)(b), 33(c) and 63 of the Indian Forest Act (Bihar Amendment Act, 1989), Act, 1927 does not apply with regard to “River Sand” rather the same provision does apply in case where a person has removed “Tree” from reserve forest area notified by the Government of India in exercise of its power conferred by Section 30 of the Indian Forest Act, 1927. He further submits that in view of the aforesaid provisions of law, the entire proceeding of confiscation was bad in law by which the truck of the petitioner has been seized and confiscated by the Forester. The petitioner is *bonafide* owner of the truck bearing Registration No. UP65T-5561 and none has come forward to claim his ownership regarding the vehicle in question.

4. Counsel for the Respondents has submitted that earlier the petitioner has filed CWJC No. 15440 of 2017 and the same was disposed of on 17.11.2017 with direction to the Authorized Officer-cum-Divisional Forest Officer concerned to consider and dispose of the confiscation case instituted against the respective petitioner in accordance with law within a period of three months from the date of receipt/production of copy of this



order. He further submits that Confiscating Officer has passed the order. Thereafter, petitioner has filed appeal before the Appellate Authority and being aggrieved by the order of the Appellate Authority, he has also preferred revision vide Revision Case No.26 of 2018 which is still pending for consideration.

5. Counsel for the State submits that in similar facts of the case, this Court vide judgment dated 17.4.2019 passed in CWJC No.8137 of 2019 has directed the Revisional Authority to dispose of the revision application filed by the petitioner in accordance with law.

6. This Court is of the view that since revision application preferred by the petitioner is still pending before the competent authority, the parallel adjudication on same issue by this Court is not proper.

7. In view of such, this writ petition is disposed of with direction to the Revisional Authority to dispose of the revision application filed by the petitioner in accordance with law after taking into consideration the points of law as raised by the petitioner in this writ petition and pass speaking order within a period of two months from the date of receipt/production of copy of this order. In the event Revisional Authority will not pass final order within the aforesaid period of two months, the petitioner



will be at liberty to file appropriate application in this Court in
accordance with law.

S.Ali/-

(Sanjay Priya, J)

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	30/04/2019
Transmission Date	N.A.

