

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.2359 of 2016**

Sanjay Kumar Ray son of Bijay Bahadur Ray, resident of Village- Chandmari Road, Kankarbagh, Patna at Present resident of Village Karitpur Laxmipur, P.O.- Kamarpur, Police Station- Buxar M, District- Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Forest and Environment, Bihar, Patna.
2. The Principal Secretary, Environment and Forest Department, Bihar, Patna.
3. The District Magistrate, Rohtas at Sasaram.
4. The Authorized Officer-cum-Divisional Forest Officer, Rohtas Forest Division, Sasaram, District- Ro
5. The Forest Range Officer, Sasaram, District- Rohtas.

... .. Respondent/s

**Appearance :**

For the Petitioner/s : Mr. Gautam Kejriwal  
Mr. Rajeev Ranjan

For the Respondent/s : Mr. Alok Kumar Jha  
Ms. Archana Munakshee, G.P.-6

**CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA**  
**ORAL JUDGMENT**

**Date : 18-04-2019**

Heard the learned counsel for the petitioner and the State.

This writ petition has been filed for quashing the order dated 16.10.2015, as contained in Annexure-7, passed by the Principal Secretary, Department of Forest and Environment in Revision Case No. 02 of 2015, whereby Respondent no. 2 has been pleased to affirm the order dated 26.12.2014, as contained in Annexure-6, passed by the District Magistrate, Rohtas at Sasaram in Forest Confiscation Appeal Case No. 26 of 2014 and quashing the order dated 26.12.2014 as contained in Annexure-6, by which the District Magistrate, Rohtas at Sasaram has affirmed the order dated



26.03.2014 as contained in Annexure-5, passed in Confiscation Case No. 121 of 2013, by which truck of the petitioner has been illegally seized and for direction to the Authorized Officer-cum-Division Forest Officer, Rohtas Division, Sasaram to release the vehicle in favour of petitioner.

Learned counsel for the petitioner has submitted that loaded truck of the petitioner was not caught in the protected forest area. It was seized near Bilaspur village under the jurisdiction of Karaghar Police Station. The driver of the petitioner, namely, Amit Kumar had loaded the stone chips from business premises of M/s Krishna Paswan of Mauja Bodh Chak, Gaya on 18.12.2013 at 4:00 P.M. having valid challan, which was to be unloaded to Shambhu Pathak, Krit Sagar Plant, Buxar. Copy of aforesaid challan is annexed as Annexure-2.

It has been submitted that as soon as the truck reached near village Bilaspur, Karaghar (Sidi O.P.), police stopped the truck. The driver of the vehicle fled away leaving the vehicle. Thereafter confiscation proceeding was initiated by the authority and vehicle was seized.

Learned counsel for the petitioner has submitted that entire order passed by the Confiscating Officer is based on conjecture and surmises. In the order of the Confiscating Officer as contained in Annexure-5, there is no denial that challan was not produced by the



petitioner. It is also nowhere mentioned that challan was forged. It is only mentioned in the Confiscation Order that authority has doubted with regard to the challan on the basis of timing not properly mentioned in the challan and also that vehicle was not passing/moving through the route as mentioned in the challan.

Being aggrieved by the order of the Confiscating Officer, petitioner preferred appeal before the Collector, Rohtas at Sasaram vide Confiscation Appeal No. 26 of 2014, which was rejected on 26.12.2014. Thereafter revision was filed by the petitioner vide Revision Case No. 2 of 2015. The same was rejected on 16.10.2015. The Revisional Authority has mentioned in the order that the Range Officer of Forest on examination found the vehicle loaded with about 500 CFT 5/8 size stone chips with no valid challan/paper. It was found that stones were brought from the illegal mining in Fazilpur Protected Forest to Gopi Bigaha crusher mandi and converted into 5/8 size chips, which was illegally being transported by the seized vehicle.

From perusal of the revisional order, it appears that revisional authority has not considered the submission made on behalf of petitioner that truck was loaded with stone chips from business premises of M/s Krishna Paswan of Mauja Bodh Chak, Gaya on 18.12.2013 at 4:00 P.M. having valid challan, which was to be unloaded to Shambhu Pathak, Krit Sagar Plant, Buxar.



Learned counsel for the petitioner has submitted that driver of the truck had paid toll tax of Rs. 30/- while he was going to Gaya for loading the stone chips vide receipt no. 12037 dated 18.12.2013. He had also paid toll tax of Rs. 30/- while he was returning from Gaya vide receipt no. 12086 dated 18.12.2013.

It has been submitted that appellate court wrongly read receipt no. 12087 and 12088 instead of toll tax receipt no. 12037 and 12086. The revisional authority has not considered all these submissions made by the petitioner and affirmed the order of the appellate authority in mechanical manner on the same ground as mentioned by the Confiscating Officer.

The revisional authority has stated in the order that the appellate authority in his order has observed that challan which was produced during hearing did not indicate the quantity of loaded stone chips and the road tax bearing receipt nos. 12087 and 12088 gave rise to suspicion. The revisional authority has further stated in the order that the appellate authority has raised two important points (i) that no receipt indicating the quantity and rate of stone chips have been submitted and (ii) when there is a road route to go to Buxar from Bodhchak through Dehri to Nasriganj, Bikramganj and Dumrao then in what circumstances the truck was being taken to Buxar through Dehri to Sasaram Kochas.



From perusal of all the orders as contained in Annexures- 5, 6 and 7, it appears that none of the Court has mentioned that challan was not valid. The confiscation has been made on conjecture and surmises that the truck was loaded with illegal stone chips without valid challan.

Therefore, the orders dated 26.03.2014, 26.12.2014 and 16.10.2015 as contained in Annexures- 5, 6 and 7 are hereby set aside.

The instant writ petition is accordingly allowed.

The respondent is directed to release the truck of the petitioner within a period of 15 days from the date of receipt/production of this order on verification of all the papers produced on behalf of petitioner with respect to the vehicle.

**(Sanjay Priya, J)**

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