

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17235 of 2017

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Sri Niwas Singh, son of Bindeshwari Singh, resident of village- Majhariya,
P.S.- Buxar, District- Buxar.

... .. Petitioner/s

Versus

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

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Tiwary, Advocate
For the Respondent/s : Mr. Ashok Kumar Pathak, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date :29-03-2019

Petitioner has filed this writ application for release of the vehicle (Truck) bearing Registration No. BR 44 G 0434, which has been confiscated in Confiscation Case No.50 of 2012 on the ground that it was found loaded with stone chips from reserved forest area.

2. Counsel for the Petitioner has submitted that stone chips were loaded through valid Challan and the vehicle was intercepted near village- Amaratalab, which is not the forest area. Counsel for the Petitioner further submits that during confiscation proceeding driver had appeared as witness. He has submitted that he was having valid Challan and he had shown the Challan to Police, but still order of confiscation has been passed. It is further



submitted that Challan produced by the Petitioner was duly verified and vide Annexure-3 the same was found to be valid. Thereafter, the Petitioner filed appeal and revision before the competent authority vide Forest Confiscation Appeal No.34 of 2014 and Forest Revision Case No.07 of 2015, which were also dismissed.

3. Counsel for the State submits that no Challan was produced by the Petitioner at the time of seizure. Therefore, vehicle was seized.

4. Reply to the Counter Affidavit has been filed on behalf of the Petitioner stating therein that loaded truck was not seized in forest protected area, rather, it was seized near Aara Talab 150 feet east of railway crossing, which is far away from the protected forest area. It has further been submitted that stone chips was carried from the business premises of one Santosh Kumar, Gaya, on 17.12.2012 at about 9 PM and was to be unloaded at the house of Krishna Singh for construction work of house. Challan is annexed as Annexure-2 to the writ application.

5. It has been mentioned in para 9 to the reply of Counter Affidavit that aforesaid Challan was verified from the Mines Department, Gaya, by the DFO, Sasaram, which was found to be correct and genuine vide Memo No.1227 dated 01.07.2014



sent by the Assistant Director, Mines and Mineral Department, Gaya. Verification Letter has been annexed as Annexure-3 to the writ application.

6. This Court from perusal of the impugned orders and the submissions as made in para 7, 8 and 9 to the reply of Counter Affidavit finds that valid Challan was produced before the Divisional Forest Officer, which was also got verified by the department and found to be genuine vide Annexure-3, but still order of confiscation has been passed and vehicle has been confiscated. Thereafter, appeal and revision were also filed before the competent authority, but the same were dismissed in mechanical manner. Vehicle of the petitioner is lying uncared in open sky since 17.12.2012.

7. In view of such, impugned orders as contained in Annexure- 5, 6 and 7 are illegal and are, accordingly, set aside.

8. The Divisional Forest Officer, Rohtas, is directed to release the vehicle in favour of the Petitioner after verification of all the documents within a period of one month from the date of receipt of the order. The Petitioner will file an Affidavit before the authority concerned that he will produce the vehicle as and when required in the pending Forest Case No.59 of 2012 and shall not dispose of the same during pendency of the aforesaid case.



9. This Court after perusing the order of the confiscating authority, appellate authority as well as revisional authority finds that they have passed the order in mechanical manner without looking into documents and caring to see bonafide of the petitioner. The vehicle of the petitioner has remained in open sky since 17.12.2012 due to such illegal order(s) passed by the authorities concerned in mechanical manner without looking into the valid documents produced by the petitioner.

10. Therefore, the State of Bihar through the Principal Secretary, Department of Environment and Forest, Govt. of Bihar, Patna, (Respondent No.1) is directed to pay compensation of rupees twenty five thousand to the Petitioner for the loss caused to the vehicle due to such illegal order(s) passed by the authorities in mechanical manner.

11. This writ application is, accordingly, allowed with the directions made above.

(Sanjay Priya, J)

J. Alam/-

AFR/NAFR	NAFR
CAV DATE	N/A
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