

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10115 of 2015

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Shiv Shankar Prasad Singh S/o Late Maheshwari Singh Resident of Mohalla -
New Area, Bisar Tank, P.S. - Civil Lines, District - Gaya.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Environment and Forest, Govt. of Bihar, Old Secretariat, Patna
2. The Principal Secretary, Department of Environment and Forest, Government of Bihar, Old Secretaria
3. The District Magistrate, Gaya, District - Gaya.
4. The Divisional Forest Officer, Gaya, District - Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ravindra Kumar Sinha
For the Respondent/s : Ms. Shalini Raut, AC to SC-17

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date : 15-04-2019

Heard the learned counsel for the petitioner and the State.

The instant writ petition has been filed for quashing the order dated 19.03.2015 as contained in Annexure- 6 passed by the Principal Secretary, Department of Environment and Forest, Govt. of Bihar in Revision Case No. 21/2014, by which the orders dated 07.08.2013 as contained in Annexure- 4 passed by the District Magistrate, Gaya in Forest Appeal No. 01 of 2013 was affirmed and quashing the order dated 07.08.2013 passed in Appeal No. 01 of 2013 as well as for quashing the order dated 06.12.2012 as contained in Annexure- 3 passed by the Divisional Officer-cum-



Authorized Officer, Gaya passed in Confiscation Case No. 75 of 2011 and for issuance of writ of mandamus directing the respondents authorities to release the truck bearing Registration No. BR 2/4995 in favour of petitioner.

Learned counsel for the petitioner has submitted that he is a registered Government Contractor and Managing Director of M/s Shiv Kalyani Construction Ltd. Mr. Kaushal Kishore Thakur, Forest Range Officer raided Karjara and Belwa hills by a joint team of forest and police personnel.

It is alleged that truck of the petitioner was seized and forest case was registered vide Forest Case No. 84 of 2011. A seizure report was prepared and confiscation proceeding was initiated in the court of Authorized Officer, Gaya vide Confiscation Case No. 75 of 2011 and information thereto was given to the learned Chief Judicial Magistrate, Gaya. Thereafter notice was issued to the petitioner. The petitioner produced all the relevant papers including challan and he denied that stones were loaded from the reserve forest area rather it was loaded and brought from the leaseholder Mr. Sanjit Kumar Singh.

Learned counsel for the petitioner has submitted that the Authorized Officer-cum-Divisional Forest Officer, Gaya after not taking into consideration all the relevant documents rejected the



show cause and ordered for confiscation of the truck of petitioner vide order dated 06.12.2012 as contained in Annexure-3.

The petitioner being aggrieved by the aforesaid order dated 06.12.2012 preferred an appeal before the District Magistrate, Gaya vide Forest Appeal No. 01 of 2013. The District Magistrate, Gaya dismissed the appeal and affirmed the order of the Authorized Officer-cum-Divisional Forest Officer, Gaya vide order dated 07.08.2013 as contained in Annexure-4. Thereafter the petitioner filed writ petition before this Court, which was disposed off by order dated 20.08.2014 passed in C.W.J.C. No. 23369 of 2013 with liberty to take recourse to the alternative remedy of Revision under Section 52B of the Bihar Amendment in the Forest Act, 1927.

It has been submitted that petitioner filed revision petition before the Principal Secretary, Department of Environment and Forest, Govt. of Bihar vide Forest Revision Case No. 21 of 2014 and after hearing the parties the revision application was dismissed vide order dated 19.03.2015.

Learned counsel for the petitioner has submitted that so-called reserved Belwa Forest area was reserved by Notification No. C/F-10148/52 dated 02.01.1953 but the alleged date of



occurrence is 25.12.2011, about 30 years from the date of notification.

It has been submitted that truck of the petitioner was not seized from the reserved forest area rather it was seized from the road.

Learned counsel for the petitioner has submitted that Confiscating Officer has come to wrong finding that challan was managed. It has been submitted that the respondent has not denied that the challan carried by the petitioner was issued by the lease holder Sanjit Kumar Singh. It has been further submitted that aforesaid leaseholder appeared before the Confiscating Officer. The order has wrongly been passed by the Confiscating Officer that stone was brought from the reserved forest area.

Learned counsel for the State has filed Counter Affidavit stating in para 6 and 7 that challan of the petitioner was not found satisfactory. It is mentioned in the Counter Affidavit that illegally mined stones were being used in the construction of Karjara-Dhandhi road under PMGSY. Order of the Confiscating Officer was later on affirmed by the appellate authority as well as the revisional authority.

Learned counsel for the petitioner has submitted that during pendency of this writ petition trial of Forest Case lodged



against this petitioner vide Forest Case No. 64 of 2011 has been concluded and petitioner has been acquitted by the trial court vide judgment dated 29.06.2018.

This Court from perusal of the order of the Confiscating Officer finds that valid challan was issued to the petitioner with regard to stone loaded on the vehicle. Challan was issued by the lease holder Sanjit Kumar Singh. He also appeared before the authority and produced aforesaid challan. The Confiscating Officer has doubted the challan merely on the ground that signature of the petitioner on the challan and the attendance sheet did not match. It is mentioned in the order that signature on challan and attendance register has been made as “Kamesar Prasad” and “Kameshwar Prasad” respectively. The appellate authority and the revisional authority in mechanical manner has affirmed the order of the Confiscating Officer on similar ground.

This Court finds that reason given by the Confiscating Officer dated 06.12.2012 for disbelieving the challan did not justify. The appellate authority and the revisional authority has also failed to properly appreciate that challan which was produced by the petitioner was issued by the leaseholder and leaseholder himself had appeared before the Confiscating Officer to depose that the aforesaid challan was genuine.



Therefore, the orders dated 06.12.2012, 07.08.2013 and 19.03.2015 as contained in Annexures- 3, 4 and 6 are hereby set aside.

This writ petition is accordingly allowed.

Respondent no. 4 is directed to release the vehicle of the petitioner within a period of fifteen days from the date of receipt/production of this order after proper verification of all the relevant documents produced by the petitioner.

(Sanjay Priya, J)

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AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	24.04.2019
Transmission Date	

