

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7968 of 2016

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Santosh Kumar Gupta son of Sri Doma Sah, resident of village- Amara Talab,
P.S.-Sasaram M, District Rohtas.

... .. Petitioner/s

Versus

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

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajani Kant Singh, Advocate.
For the Respondent/s : Mr. Raju Giri, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 16-04-2019

1. Petitioner is aggrieved by the order of Confiscating Authority dated 17.2.2014 as contained in Annexure-5 passed by the Authorised Officer-cum-Divisional Forest Officer, Rohtas Forest Division, Sasaram, Distt. Rohtas, in Confiscation Case No. 36 of 2013 which was affirmed by the District Magistrate, Rohtas, in Appeal Forest Confiscation Case No. 19 of 2014 as contained in Annexure-6 and also affirmed by the Revisional Authority in Revisional Case No. 4 of 2015 by order dated 4.12.2015 as contained in Annexure-7.



2. Heard learned counsel for the petitioner and counsel for the State.

3. The State was directed earlier by order dated 26.3.2018 to file counter affidavit but no counter affidavit has been filed. Counsel for the State seeks time to file counter affidavit.

4. Counsel for the petitioner submits that petitioner was holding valid Challan as contained in Annexure-1. He has also enclosed Annexure-2 which is receipt of the Toll Tax. He further submits that as per report of the Assistant Director (Mines) as contained in Annexure-4, Challan was properly verified and was found genuine. He further submits that all these points were taken by the petitioner before the Confiscating Officer as well as before the Appellate and Revisional Authorities, but, none of the authorities have taken into consideration the submission of the petitioner as well as the Challan submitted by him. The Confiscating Officer has passed the order as contained in Annexure-5 only on the ground that the truck was found loaded with stone chips which was forest produce and accordingly the truck of the petitioner has been confiscated.

5. This Court after looking into the copy of Challan filed by the petitioner as contained in Annexure-1 and also the Challan verification report (Annexure-4) finds that petitioner was



holding valid Challan and, therefore, confiscation of truck of the petitioner was illegal. It appears that the Appellate Authority has in mechanical manner affirmed the order as contained in Annexure-5 passed by Authorised Officer cum Divisional Forest Officer, Rohtas. It further appears that during hearing, the Challan was produced by the petitioner and witnesses were also produced, but Confiscating Officer has without considering those documents passed order.

6. Therefore, the impugned order as contained in Annexure-5, 6 and 7 are hereby set aside.

7. The Respondent No. 4 i.e. the Authorised Officer-cum-Divisional Forest Officer, Rohtas Forest Division, Sasaram, Distt. Rohtas, is directed to release the truck of the petitioner bearing registration No. WB-23B-3915 within a period of 15 days from the date of receipt/production of a copy of this order after verification of the papers of the vehicle.

8. This writ application is accordingly allowed.

(Sanjay Priya, J)

S.Ali/-

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

