

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6556 of 2016

=====

Arvind Kumar Singh son of Indradeo Singh R/o Mohalla Bal Bharti Road,
Civil Lines Sasaram, P.S. Sasaram, District Rohtas

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Environment and Forest Government of Bihar, Patna
2. The Principal Secretary, Department of Environment and Forest 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, Tilauthu, Forest Region, District-Rohtas

... .. Respondent/s

=====

with

Civil Writ Jurisdiction Case No. 6576 of 2016

=====

Jokhan Singh son of Late Bhikham Singh R/o village Sita Bigha, P.S. Sasaram (M), District-Rohtas

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Environment and Forest Government of Bihar, Patna
2. The Principal Secretary, Department of Environment and Forest 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, Tilauthu, Forest Region, District-Rohtas

... .. Respondent/s

=====

Appearance :

(In Civil Writ Jurisdiction Case No. 6556 of 2016)

For the Petitioner/s : Mr.Rajani Kant Singh

For the Respondent/s : Mr.Sunil Kr. Mandal- SC-3

Mr. Bipin Kumar AC to SC-3

(In Civil Writ Jurisdiction Case No. 6576 of 2016)

For the Petitioner/s : Mr.Rajani Kant Singh

For the Respondent/s : Ms. Archna Meenakchee GP-6

Mr. Prabhut Ranjan AC to GP-6

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 12-04-2019



Heard learned counsel for petitioners and the State.

The petitioners have prayed for issuance of an appropriate writ in nature of *certiorari* for quashing the order dated 17.2.2016, passed by Principal Secretary, Department of Environment and Forest, Government of Bihar, Patna in Revision case nos. 28 of 2015 (in CWJC No. 6556 of 2016) and 26 of 2015 (in CWJC No. 6576 of 2016) as contained in Annexure-5, whereby and whereunder the Principal Secretary, Department of Environment and Forest, Government of Bihar, Patna, has been pleased to dismiss the revision of the petitioners affirming the order dated 30.06.2015, passed by the District Magistrate Rohtas at Sasaram in Forest Confiscation Appeal case nos. 63/2014 (in CWJC No. 6556 of 2016) and 62 of 2014(in CWJC No. 6576 of 2016) as contained in Annexure-4 and order dated 30.8.2014, passed by Authorized officer –cum- Divisional forest officer, Rohtas Forest Division, Sasaram in Confiscation case no. 52 of 2014 as contained in Annexure-3, arising out of Forest Case no. 42 of 2014 by which the Truck of the petitioners bearing Registration Nos. BR 24G/1879 (in CWJC No. 6556 of 2016) and BR 24G/1371, HR 38L/3239 and MP 19H/0221 (in CWJC No. 6576 of 2016) have been confiscated and further for directing the Authorized- Officer-



cum- Divisional Forest Officer, Rohtas Forest Division, Sasaram to release the Trucks bearing Registration nos. BR 24G/1879, BR 24G/1371, HR 38L/3239 and MP 19H/0221 in favour of the petitioners within a specified period.

Learned counsel for petitioners has submitted that petitioners are aggrieved by order as contained in Annexure(s) 3,4 and 5 by which four truck belonging to the petitioners have been confiscated by the Forest authority in confiscation case no. 52 of 2014 arising out of Forest Case no. 42 of 2014 on the ground that they were found loaded with forest produce.

Petitioner of CWJC No. 6556 of 2016 claiming himself to be owner of truck bearing Registration No. BR 24G/1879, and petitioner of CWJC No. 6576 of 2016 claiming himself to be owner of three truck bearing registration nos. BR 24G/1371, HR 38L/3239 and MP 19H/0221.

Learned counsel for petitioners has submitted that truck of the petitioners was seized near Mahavir Asthan, Gaurakshani in Sasaram-Ara road which is not prohibited Forest area. It has further been submitted that the truck was loaded with stone materials that is dust at the Crusher Machine of proprietor Arun Kumar Singh of M/S Anjani Stone Works at Majhauiliya, Amas, District, Gaya for which valid mining challans were



issued and drivers were in possession of valid Challans. The witnesses during their statement has spoken before the Confiscating Authority about possession of valid challans and items found loaded on the truck were not forest product.

It appears that the Confiscating Authority in its order as contained in Annexure 3 has noted the submission made in the show cause filed on behalf of petitioner of CWJC No. 6576 of 2016 but still has confiscated the trucks only on the ground that the trucks were loaded with forest produce i.e. stone dust.

A counter affidavit has been filed on behalf of the State in CWJC No. 6576 of 2016. The counsel for State in CWJC No. 6556 of 2016 has submitted that he has also received the instruction and has taken the similar stand as taken by the State in CWJC No. 6576 of 2016. The petitioners have enclosed the copy of the challans issued in favour of the aforesaid stone dust in both the writ petitions which have been annexed as Annexure(s)-1, 1/1 and 1/2.

This Court, after looking into the vallid challans issued in favour of the aforesaid loaded stone dust and also the statement of the witnesses in the show cause which is mentioned in detail in the impugned order as contained in Annexure-3, finds that all the petitioners have stated before the Confiscating



Authority that the articles loaded on the trucks were not forest produce. The trucks were loaded with stone dust on the basis of valid challans. The materials going towards Sasaram-Ara road was seized near Mahavir Asthan, Gaurakshani which is not prohibited Forest area. It further appears that trucks were loaded with stone materials (dust) at the Crusher Machine of proprietor Arun Kumar Singh of M/S Anjani Stone Works at Majhauriya, Amas, District, Gaya.

This Court finds that the Confiscating Authority without considering the papers and case of the petitioners has ordered for confiscating the aforesaid trucks. Similarly, both Appellant Authority as well as the Revisional Authority without applying their mind in mechanical manner affirmed the order passed by the Confiscating Authority. Therefore, the orders as contained in Annexure(s) 3,4 and 5 are set aside.

The Divisional Forest Officer, Nawada (respondent no.4) is directed to release the trucks of the petitioners bearing Registration No. BR 24G/1879 (C.W.J.C. No. 6556 of 2016), BR 24G/1371, HR 38L/3239 and MP 19H/0221 (C.W. J.C. No. 6576 of 2016) within a period of one month from the date of receipt/production of copy of this order after proper verification of the papers relating to ownership. The petitioners will file



affidavit that they will not dispose of the trucks in-question during pendency of the criminal case, if any and will produce the trucks in- question as and when required by the criminal Court.

The writ petition is, accordingly, allowed.

(Sanjay Priya, J)

shyambihari/-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	17.4.2019
Transmission Date	

