

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17633 of 2019

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Surendra Kumar, Son of Yamuna Singh, Resident of Village- Pachpokhari,
P.S.- Sheosagar, District- Rohtas.

... .. Petitioner/s

Versus

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

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajani Kant Singh, Advocate.
For the State	:	Mr. Raghwanand, G.A.-11
		Mr. Sanjay Kr. Tiwari, A.C. to G.A.11

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 28-08-2019

1. This writ application has been filed for issuance of direction to Respondent No. 3 (The Divisional Forest Officer-cum-Authorized Officer, Rohtas Forest Division, Sasara, Distt. Rohtas), to release the Truck of the petitioner bearing registration No.UP-67T-0696 which was seized in connection with Forest Case No.29 of 2019 for the offences under Sections 33, 41 and 42 of the Forest Act.

2. Heard Mr. Rajani Kant Singh, learned counsel for the petitioner, and Mr. Raghwanand, G.A.-11 counsel appearing on behalf of the State.

3. Counsel for the petitioner submits that stone chips are not forest produce. The truck as per prosecution report has been seized not from the protected forest area rather the same has been seized in village



Gopi Bigha by the Dehri Police. He further submits that stone chips are Minor Minerals. The provisions of Sections 33, 41 and 42 of Forest Act will not apply in this case. He further submits that there is separate provisions under Section 40(2) of Bihar Minor Mineral Concession Rules, 1972 for taking appropriate action for unauthorized extraction and removal of minor minerals.

4. It is submitted that Driver proceeded for his destination and while the truck was in route of destination, the Dehri Police illegally seized the truck of petitioner levelling allegation of illegal transportation of stone chips from protected forest area. He further submits that truck of the petitioner is lying in the open sky. The condition of vehicle is every day deteriorating due to natural decay.

5. Counsel for the State has appeared and submitted that truck of the petitioner was found loaded with stone chips which appeared to be similar to the forest produce.

6. Counsel for the petitioner submits that in similar matter this Hon'ble High Court has been pleased to release tractor/trailer by Judgment dated 19.6.2019 passed in CWJC 11634 of 2019. He submits that vehicle of the petitioner is lying in the open sky since 2.8.2009 and no confiscation proceeding has been initiated till date. Counsel for the petitioner further submits that driver was having valid Challan with regard to stone chips loaded on the truck. The licence was produced by the driver. The Mining Challan of the truck of the petitioner was issued from the business premises of M/s. Rajesh Kumar Singh, Arjundih



Kauwal, Chhatarpur, Distt. Palamu (Jharkhand) which was to be unloaded in Nokha in the District of Rohtas.

7. In such circumstances, the Respondent No. 3 i.e. the Divisional Forest Officer-cum-Authorized Officer, Rohtas Forest Division, Sasaram, Distt. Rohtas, is directed to release the truck of the petitioner bearing registration No. UP-67T-0696 within a period of one week from the date of receipt of this order after proper verification of the paper with regard to ownership of the truck. The petitioner will file affidavit that he will produce the vehicle in question as and when required by the trial court in pending Forest Case and shall not dispose of the vehicle till disposal of the case.

8. This writ application is accordingly allowed.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	31/09/2019
Transmission Date	N.A.

