

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23195 of 2018

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Ishwar Yadav son of Late Kishun Yadav, Resident of Village- Baskot Tola,
Kaknpat Bigha, Police Station- Govindpur, District-Nawada.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary Department of Environment and Forest, Govt. of Bihar Patna.
2. The collector-District- Magistrate Nawada, District- Nawada
3. The Authorised officer-cum-forest Ranger officer, Nawada Forest Ranger ,Nawada District- Nawada
4. The Divisional forest officer, Nawada, District- Nawada.
5. The Forest Ranger Officer Govindpur, District- Nawada.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rabindra Prasad Singh
For the Respondent/s : Mr. Chitranjan Sinha- PAAG2

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 29-03-2019

Heard learned counsel for petitioner and the State.

The petitioner has prayed for issuance of an appropriate writ in nature of *certiorari* for setting aside the order dated 31.7.2018 passed in Forest Revision case no. 10 of 2017 by the Principal Secretary (respondent no.1) along with the order dated 14.2.2017 passed by the Collector-cum-Appellate Authority, Nawada (respondent no.2) in Forest Appeal No. 15(M)/2015 arising out of order dated 5.2.2015 passed in Confiscation case no. 4/14 passed by the Authorized Officer-cum- Divisional Forest Officer, Nawada whereby and whereunder petition for release of his vehicle (Tractor-Trolley) seized was rejected.



Learned counsel for petitioner submits that his vehicle has been confiscated wrongly on the ground that it was found loaded with moram (soil) belonging to the forest area. Learned counsel further submits that no forest product was loaded on the alleged tractor. The Confiscating Authority has passed the order of confiscation illegally without considering the plea of the petitioner. The Appellate Authority and Revisional Authority have also affirmed the order passed by the Confiscating Officer. Learned counsel further submitted that witnesses of the respondent before the Confiscating Officer have specifically stated that aforesaid Moram (soil) loaded on the tractor was not the forest produce. The tractor and trolley seized on 9.2.2013 is lying in open sky in the premises of the forest office.

This Court, after looking into the order passed by the Confiscating Officer as well as the order passed by Revisional Authority, as contained in Annexure(s) 3 and 9, find that both the Courts have without considering the case of the petitioner merely on conjecture and surmises held that the moram (soil) loaded on the tractor was forest produce and has confiscated the vehicle of the petitioner. Therefore, the impugned order as contained in Annexure(s) 3 and 9 are hereby set aside. The Divisional Forest Officer, Nawada (respondent no.4) is



directed to release the tractor of the petitioner within a period of one month from the date of receipt/production of copy of this order after proper verification of the paper relating to ownership. The petitioner will file affidavit that he will not dispose of the vehicle during pendency of the criminal case and will produce the vehicle as and when required by the criminal Court.

The writ petition is, accordingly, allowed.

(Sanjay Priya, J)

shyambihari/-

AFR/NAFR	
CAV DATE	N/A
Uploading Date	5.4.2019
Transmission Date	

