

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20341 of 2019

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Amrendra Kumar Singh @ Bitu Chandrabanshi, S/o Ram Pravesh Singh,
Resident of Village- Nimhat Devadard, P.s.- Nauhata, District- Rohtas

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Forest and Environment, Bihar, Patna
2. The Divisional Forest Officer cum Authorised Officer, Rohtas, Forest Division, Rohtas at Sasaram
3. The Forester, Bauliya Range, Rohtas

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Tiwary, Advocate
For the Respondent/s : Mr.Anant Prasad Singh, S.C.-15

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

4 22-10-2019 Heard learned counsel for the petitioner and the

learned counsel for the State.

The petitioner in this writ application prays for a mandamus commanding the respondent-authorities to release the vehicle (Tractor) bearing Registration No.BR-24G-7343, Engine and Chassis No.NDNL-06159, which has illegally been seized from the house of the petitioner as nothing was loaded on vehicle in connection with Forest Case No.15 of 2019 (Confiscation Case No.16 of 2019).

The matter had earlier come up for admission when this Court after considering the facts and the delay in disposal of the confiscation proceedings directed the respondents to file a



counter affidavit.

A counter affidavit has been filed in this Court today bringing on record the order dated 12.10.2019 passed in Confiscation Case No.16 of 2019 by the Authorized Officer-Cum-Divisional Forest Officer, Rohtas, Forest Division, Sasaram.

It appears from perusal of the said order that the vehicle in question has now been confiscated for an offence under the Forest Act. Learned counsel for the State thus submits that the present writ application has been rendered infructuous and the petitioner has a remedy of appeal before the appellate authority, namely, the District Magistrate, under the provisions of Rule 52(a) of the Forest Act.

Learned counsel for the petitioner thus seeks liberty to withdraw the application with liberty to the petitioner to prefer an appeal against the order which has been passed in this writ petition during the pendency of this application. He, however, prays that in many such circumstances, the release of the vehicle can be effected, subject to the conditions that the petitioner undertakes to furnish security of the value of the vehicle as has been done in the past in the case of several such seizures made under the Forest Act.



Considering the aforementioned facts and circumstances, while disposing of the present writ application and granting liberty to the petitioner to withdraw the writ application for preferring an appeal, let the petitioner approach the concerned appellate authority along with a copy of this order, making a fresh prayer for release of the vehicle in question provisionally pending his appeal in connection with Forest Case No.15 of 2019 (Confiscation Case No.16 of 2019). If the petitioner so files an appeal before the appellate authority within a fortnight of the disposal of the present writ application, the appellate authority shall consider the case of the petitioner and pass appropriate orders for release of the vehicle provisionally on production of proof of ownership and registration of the vehicle, subject to the following conditions :

(i) Petitioner shall furnish surety bond of Rs.6,00,000/- (six lacs) (not in form of Bank guarantee or cash) with two sureties of the like amount to the satisfaction of court below or the authority concerned.

(ii) The petitioner shall also give an undertaking that he will not deal with the vehicle in question and shall not alienate or encumber the same creating any kind of adverse interest against the



interest of the State, he will not use the vehicle for any illegal purpose and as and when required, he will produce the vehicle in question before the competent court/authority.

(iii) A photograph of the vehicle shall be taken and *Panchnama* be also prepared and kept on record.

It shall be subject to result of the decision in LPA No.1647 of 2015 where a question as to whether an executive can pass an order of confiscation is pending consideration.

With the aforementioned observations and directions, the writ application stands disposed of.

Let the order in this writ application and annexed by the respondents in the counter affidavit as Annexure C be treated to be the certified copy provisionally.

(Anjana Mishra, J)

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