

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20040 of 2016

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Amit Kumar son of Late Indradeo Singh, resident of Village- Karath, Police Station- Tarari, District- Bhojpur. At present residing at Village- Amari (Pump), Karwandiya, Police Station- Sasaram (M), District- Rohtas.

... .. Petitioner/s

Versus

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

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Arun Kumar Singh
For the Respondent/s : Mr.Awanish Nandan Sinha- Gp21

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

7 13-02-2020 Heard both sides.

2. Petitioner seeks quashing of order dated 21.09.2016 passed by Principal Secretary, Environment and Forest Department, Government of Bihar, Patna in Forest Revision Case No.44 of 2015 by which the order dated 30.08.2015 passed by District Magistrate-cum-Appellate Authority, Rohtas at Sasaram in Forest Confiscation Appeal Case No.76 of 2013 has been confirmed as well as order dated 16.11.2013 passed by the Divisional Forest Officer-cum-Authorised Officer, Rohtas at Sasaram in Confiscation Case No.34 of 2012 has also been



confirmed and revision petition has been dismissed.

3. The facts, bereft of unnecessary details, are that on 26.08.2012 the Forester of Darigaon Forest Area gave a written report to the Chief Judicial Magistrate, Rohtas at Sasaram stating therein that during course of patrolling when he (forester) along with other forest officials reached near Fazilpur Forest (Reserved) Area at about 8:00 A.M., he saw a truck loaded with stone chips coming towards Chandani Chowk Tara Chandi Road. The patrolling party intercepted the truck but the driver and other persons travelling on the truck fled away. On chase, the *khalasi* (cleaner) of the truck was apprehended. The truck bearing registration no.UP-67T-0253 loaded with 400 cft. hand broken stone chips were seized along with other articles. On such, Forest Case No.47 of 2012 was registered under Sections 33, 41 and 42 of the Forest Act. Confiscation Case No.34 of 2012 was initiated before the Divisional Forest Officer, Rohtas Forest Division (respondent no.4) under Section 52 (3) of the Forest Act.

4. The Divisional Forest Officer, Rohtas after perusing the evidence and hearing both the sides, by order dated 16.11.2013 confiscated the truck. The petitioner filed Forest (Confiscation) Appeal No.76 of 2013 before the District



Magistrate-cum-Appellate Authority, Rohtas at Sasaram against the order dated 16.11.2013 passed by the Divisional Forest Officer. The appellate authority also dismissed the appeal. The petitioner thereafter preferred Forest (Confiscation) Revision Case No.44 of 2016 before the Principal Secretary, Environment and Forest Department, Government of Bihar, Patna, (respondent no.2) and respondent no.2 also dismissed the revision confirming the appellate order as well as the order passed by the confiscation authority.

5. Learned counsel for the petitioner submits that all the three orders passed by revisional authority, appellate authority and confiscation authority are illegal based on no tangible evidence. It is further submitted that the truck was carrying stone chips under the valid challan issued by the Mining Department in favour of Dharmdeo Singh. The stone chips were to be delivered at the work site of C&C & J.V. Project, Muthani. The truck was seized outside the reserved forest area. It is further submitted that the challan was sent to the Mining Department for verification and the Mining Department confirmed the genuineness of the challan but the confiscation authority as well as the appellate authority discarded the challan only on the ground that the challan is in



the name of Dharmdeo Singh and the vehicle is standing in the name of the petitioner. It is further submitted that Dharmdeo Singh is the elder brother of the father of the petitioner and it was he, who is the karta of the joint family. Therefore, the Mining Department issued challan for carrying stone chips from Hunterganj to the work site of C&C & J.V. Project, Muthani but this fact has not been considered. It is also submitted that the vehicle was not seized inside the forest area rather the same was seized on four lane near Morsarai village and, therefore, the three orders are liable to be set aside and the vehicle is fit to be released in favour of the petitioner.

6. Learned counsel for the State submits that there is no material on record to show that the vehicle of the petitioner was carrying stone chips on a valid challan. The challan was in the name Dharmdeo Singh whereas the vehicle was standing in the name of the petitioner. The petitioner is not at all authorized to carry stone chips on such challan issued in favour of a person, who is not the owner of the vehicle. It is further submitted that the vehicle was seized by the forest officials while coming out from Fazilpur Forest (Reserved) Area and the stone chips kept on the vehicle were found to be hand-broken. The truck was also carrying labourers. It is further submitted that the evidence



of the witnesses does not inspire confidence with regard to the story put forward by the petitioner. Even the owner of the stone chips did not come forward to claim the stone chips. The confiscation authority as well as the appellate authority recorded the finding of the confiscation of the vehicle after considering the evidence and thus the orders do not suffer from any illegality and material irregularity.

7. Having considered the submissions of both sides, it is evident that the vehicle and the stone chips loaded thereon were seized and Forest Case No.47 of 2012 was registered and confiscation proceeding was initiated. The owner of the truck on being noticed appeared and filed show-cause and also adduced evidence. The petitioner claimed that the truck was carrying stone chips from Hunterganj on a valid challan issued by the Mining Department. The petitioner further claimed that the vehicle was not seized inside the reserved forest area rather the vehicle was seized from Chandani Chowk Tara Chndi Road, which is situated just by the side of four lane. The challan duly issued by the Mining Department was in the name of Dharmdeo Singh (own uncle of the petitioner). It appears that the challan was of course issued in the name of Dharmdeo Singh but Dharmdeo Singh is not the owner of the vehicle. The



ownership of the vehicle stands in the name of the petitioner. The confiscation authority and the appellate authority came to a definite finding on the basis of the evidence adduced by the petitioner that in fact the vehicle was not coming from Hunterganj rather the vehicle was coming from Fazilpur Forest (Reserved) Area. Therefore, I find that the confiscation authority has rightly recorded the finding that the petitioner was carrying forest materials from Fazilpur Forest (Reserved) Area where carrying of stone chips is strictly prohibited.

8. Having considered the facts, I do not find any merit in this writ petition. Accordingly, the same is dismissed.

(Prabhat Kumar Jha, J)

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