

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20837 of 2019

Madan Gopal Gupta, S/o late Ram Briksha Gupta, Resident of village-Suraiya, P.O. and P.S.- Khajganj, District- Gorakhpur, U.P. permanent resident of village Bhagator, P.O. Mithawa bazar, P.S. and District Maharajganj (U.P.)

... .. Petitioner/s

Versus

1. The State of Bihar through Forest Secretary-cum-Commissioner, Old Secretariat, Patna.
2. District Magistrate-cum- Collector of District West Champaran.
3. Divisional Forest Conservation Officer-cum-Area Director (Van Sanrakshak Sah Kshetra Nideshak) Balmiki Bayaghra Priyोजना, West Champaran, Bettiah, District - West Champaran.
4. Authorised Officer-cum-Forest Divisional Officer - cum- Deputy Director (Pradikrit Padadhikari Sah Van Pramandal Padadhikari Sah Upnideshak), Bayaghra Pari Yojana Pramandal- 2 Balmiki Nagar, District - West Champaran.
5. Divisional Forest Officer, Bettiah, District West Champaran.
6. Forest Officer (Ranger) Mandanpur Range, Balmiki Bayaghra Pariyोजना Pramandal Balmikinagar, District- West Champaran.
7. Forest Officer, Kotraha Depot (Van Parisar Padadhikari) Kotraha Madanpur Region, District- West Champaran.
8. Forest Settlement Officer, Kotraha Madanpur Region West Champaran.
9. Assistant Conservator of Forest, Bettiah-II-cum-Divisional Forest Officer-cum-Deputy Director Balmiki Tiger Project, Division-2, Bettiah, P.O. Balmiki Nagar, District- West Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Md. Shahnawaz Ali, Advocate
For the Respondent/s	:	Mr. Raghwanand, GA 11

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

and

HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)

Date : 01-12-2022

Heard Mr. Md. Shahnawaz Ali, learned counsel for
the petitioner and Mr. Raghwanand, learned GA 11 with Mr.



Rajan, learned AC to GA 11 for the State.

2. The petitioner has moved the Court for the following reliefs:-

“I. A writ order and direction in the nature of certiorari for quashing the order dated 19.03.2019 vide its letter no. 409 and letter no. 669 dated 06.06.2019 passed by respondent no. 4, whereby and where under it is ordered to confiscate the vehicle again ignoring the order of Respondent no. 2 and refused to release the Truck, be issued.

II. A writ order and direction in the nature of mandamus directing and commanding the respondent authorities no. 4 to release the vehicle truck bearing registration no. UP-53T/0975 vide its model no. LPT- 1613 (old Truck) of the petitioner, be issued.

III. A writ, order or Direction as the petitioner is entitled to;”

3. The brief facts of the case is that a truck along with the sand laden on it was seized by the respondent-authorities on the ground that it was carrying sand without the requisite papers.

4. Learned counsel for the petitioner submitted that earlier for the purposes of release of the truck during the pendency of the confiscation proceedings, he had moved before



the concerned authority but thereafter a final order of confiscation was passed which was challenged and set aside and the matter was again remanded to the concerned Authorised Officer concerned. It was submitted that in the second round when the matter came to Court, a direction was given to the Collector to consider the matter in Appeal. Learned counsel submitted that the Collector after going through the materials, *prima facie*, gave finding that no offence was committed and directed for release of the vehicle by the Divisional Forest Officer which was not complied with. It was submitted that though an order came to be passed on 16.03.2019 whereby again an order was passed by the Divisional Forest Officer confiscating both the vehicle and the sand, but the order of the District Collector was never complied with. Thus, it was contended that once the Collector has tentatively found that the materials which were subject matter of the seizure confiscation proceedings were not in contravention of any law, the truck of the petitioner be directed to be released forthwith as in the order of the Collector, there is a finding with regard to there being no violation of the laws by the petitioner.

5. Opposing the prayer, learned State counsel submitted that the writ petition itself is misconceived. It was



submitted that the petitioner in effect is asking the Court for compliance of the order of the Collector dated 22.02.2019, which was only limited for the purposes of interim release of the truck in question till final disposal of the confiscation proceedings and thus, the Collector by the said order while directing for interim release of the vehicle had also directed the Divisional Forest Officer to pass final order within 30 days. It was submitted that the Divisional Forest Officer has passed final order on 16.03.2019 upholding the confiscation and in that background, the prayer for implementation of the interim direction of the Collector has become ineffective. Moreover, it was submitted that even when the petitioner had moved before this Court in CWJC No. 20625 of 2018, by judgment and order dated 02.05.2019 the writ petition was disposed of noticing the order passed by the Divisional Forest Officer dated 16.03.2019 in which it was observed that it was a separate cause of action and the Court had only awarded Rs. 50,000/- (Rupees Fifty thousand) compensation to the petitioner. Learned counsel submitted that the petitioner without assailing the order dated 16.03.2019, cannot seek release of the truck which has already been confiscated.

6. Having considered the submissions of learned



counsels for the parties and taking note of the attending facts and circumstances of the case, the Court does not find any occasion to interfere. As has rightly been submitted by learned counsel for the State, there being a substantive order of confiscation dated 16.03.2019 which was earlier noticed by the learned Single Judge in his judgment and order dated 02.05.2019 passed in CWJC No. 20625 of 2018 and the petitioner not having assailed the said order dated 16.03.2019, without the same being set aside, the truck having been confiscated cannot be released by way of a provisional arrangement that too on the basis of an order passed by the Collector in a proceeding in which direction was only for release during the pendency of the proceedings which have now attained finality. The Court would not go into the merits of the matter relating to factual aspects since the same would be required to be gone into by the forum which the petitioner approaches while assailing the order dated 16.03.2019, as and when the same is done.

7. For reasons aforesaid, the writ petition stands dismissed.

8. However, the present order would not prejudice the petitioner from moving before the appropriate forum, in



accordance with law, against the order dated 16.03.2019. As a period of limitation has been prescribed, since the petitioner was pursuing the matter before this Court, by way of indulgence it is observed that if the petitioner moves before the appropriate forum within four weeks from today, the same shall be considered on merits, in accordance with law, and disposed of expeditiously, preferably within a period of four months from the date of filing of the Appeal.

(Ahsanuddin Amanullah, J)

(Sunil Dutta Mishra, J)

khushbu/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	09.12.2022
Transmission Date	

