

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 8797 of 2012

Sangam Jaiswal

.....

Petitioner

Mr. S.S. Das, Advocate

Vs.

*Appellate Authority-cum-Sub
Collector and others*

.....

Opposite parties

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE S.K. PANIGRAHI

ORDER

11.01.2022

Order No.

04.

This matter is taken up through video conferencing mode.

2. Heard Mr. S.S. Das, learned counsel for the petitioner and Mr. P.K. Muduli, learned Addl. Government Advocate.

3. The petitioner has filed this writ petition seeking to quash the order dated 28.03.2012 passed in Appeal No.01 of 2012 and also the orders dated 09.01.2012 and 11.01.2012 passed by the opposite party no.2 in TMC No.25 of 2012 under Annexures-15 and 6 respectively, and to issue direction to the opposite parties to release the vehicle bearing registration no.OR 09 E 3047 and OR 09 K 8596 from Lahunipara police station under the zima of the opposite party no.4. The petitioner further seeks direction to the opposite parties to refund the amount of penalty and royalty amounting to Rs.30,000/- along with compensation within a stipulated time.

4. Mr. S.S. Das, learned counsel for the petitioner contended that the revenue inspector is not competent authority under the Rules and, therefore, any action pursuant to the seizure of the vehicles including the proceeding initiated against the petitioner, is vitiated. Therefore, the same should be quashed and, as a consequence thereof, the vehicles of the petitioner should be released and also the

opposite parties may be directed to refund the amount of penalty and royalty of Rs.30,000/- along with compensation to the petitioner within a stipulated time.

5. Though counter affidavit has not been filed in this case, but on instructions, Mr. P.K. Muduli, learned Addl. Government Advocate contended that the revenue inspector has not seized the vehicle and, as such, he has only informed the authority with regard to illegal operation of mining. As a consequence thereof, the local IIC seized the vehicles of the petitioner. Thereby, the contention raised by learned counsel for the petitioner cannot sustain in the eye of law.

6. Having heard learned counsel for the parties and after going through the records, this Court finds that due to illegal operation of mines when the revenue inspector and local police went to spot, the drivers of the vehicles in question run away leaving the vehicles on being asked to produce transit permit. As such, during transportation of minor minerals, it is very essential to carry the transit pass. In this case, since the drivers failed to produce the transit pass and there was illegal transportation of minor minerals, i.e., sand, action was taken by the revenue inspector as well as the police authority in consonance with the rules applicable. Accordingly, the order dated 09.01.2012 under Annexure-6, being appealable, in the earlier writ petition filed by the petitioner, this Court permitted the petitioner to prefer appeal. Consequentially, the petitioner approached the appellate authority by filing appeal and in turn the appellate authority confirmed the order passed by the Tahasildar on 09.01.2012 under Annexure-6, vide order dated 28.03.2012 in Annexure-15, and also released the vehicles in question.

7. In the above view of the matter, since the vehicles of the

petitioner have already been released and, as such, the fact finding authority has already held that there was illegal operation of mining, this Court is not inclined to entertain this writ petition. So far as the claim of the petitioner with regard to penalty and royalty is concerned, liberty is granted to the petitioner to pursue his remedy before the appropriate forum in accordance with law.

8. With the aforesaid liberty, the writ petition stands disposed of.

As the restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a print out of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed, vide Court's Notice No.4587 dated 25th March, 2020, as modified by Court's notice no. 4798 dated 15th April, 2021, and Court's Office Order circulated vide Memo Nos.514 and 515 dated 7th January, 2022.

(DR. B.R. SARANGI)
JUDGE

(S.K. PANIGRAHI)
JUDGE

Ashok