

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO. 22698 OF 2022

Akhtar Khan

....

Petitioner

Mr. Mohit Agarwal, Advocate

-versus-

***Authorized Officer-cum-Assistant
Conservator of Forests, Bargarh Forest
Division, Bargarh***

....

Opp. Party

Mr. Swayambhu Mishra,
Additional Standing Counsel

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

27.09.2022

Order No.

1. This matter is taken up through hybrid mode.
2. The Petitioner in this writ petition seeks to assail the order dated 22nd January, 2020 (Annexure-3) passed by learned District Judge, Bargarh in FAO No.16 of 2018, whereby he confirmed the order dated 3rd October, 2018 passed by the Authorized Officer-cum-Asst. Conservator of Forests, Bargarh Forest Division, Bargarh in C.P. Case No.08 of 2014-15 (arising out of O.R. Case No.40 of 2014015 of Padampur Range) confiscating the vehicle of the Petitioner bearing Registration No.CG-04-G-9455 (Truck).
3. The only contention of Mr. Agarwal, learned counsel is that the driver and helper of the vehicle without consent and knowledge of their owner were transporting fire wood in the said vehicle. They were engaged to deliver grocery at Padampur and after delivery of goods, the driver and helper of Truck in connivance with one Shyamalal Podh were transporting 60 Quintals of Babul Garinda fire wood in the Truck. The Authorized

Officer as well as learned District Judge, Bargarh failed to appreciate that there is no evidence on record to show that the owner of the vehicle had any knowledge of such transportation of forest produce in the said vehicle. The helper of Truck in his statement before the Authorized Officer has categorically stated that the owner of the vehicle (Petitioner) had no knowledge about such transportation and fire wood was being transported at the instance of one Shyamalal Podh. These material aspects were not taken into consideration either by Authorized Officer or by learned District Judge, Bargarh while adjudicating the proceeding and appeal respectively. Hence, he prays for setting aside the impugned order confiscating the vehicle of the Petitioner and to release the same forthwith.

4. Mr. Mishra, learned Additional Standing Counsel, on the other hand, submits that after the order of confiscation, the Petitioner had moved learned District Judge, Bargarh on earlier occasion and the matter was remitted back to the Authorized Officer to give opportunity to the Petitioner to lead evidence with regard to the aforesaid contention raised by him. But, the Petitioner miserably failed to establish that he had no knowledge about transportation of firewood in his Truck. Referring to the observation of learned District Judge, Bargarh at paragraph-6 of the impugned order, he submits that learned District Judge after thorough scrutiny of the materials on record came to hold that in spite of giving opportunity to the Petitioner, he could not produce any material to substantiate the fact that he had no knowledge about transportation of firewood or involvement in the alleged

offence. He, therefore, prays for dismissal of the writ petition being not maintainable.

5. Considering the contentions raised by learned counsel for the parties and on perusal of the record, it appears that the impugned order was passed on 22nd January, 2020 and the writ petition has been filed on 2nd September, 2022, i.e. after lapse of more than two and half years. Delay in filing the writ petition has not been explained in the writ petition. It further appears that both the Authorized Officer and learned District Judge, Bargarh after scrutinizing the materials on record came to the conclusion that the Petitioner had knowledge of use of his vehicle for transportation of forest produce without any valid permission. The submission of learned counsel for the Petitioner to the effect that the helper of Truck had deposed that the Petitioner had no knowledge about the offence as alleged, is not believable as the Authorized Officer as well as learned District Judge, Bargarh on assessment of the materials on record came to hold that the Petitioner had knowledge about the offence so committed in respect of the aforesaid vehicle. Thus, a bald statement of the helper cannot override the overwhelming materials with regard to knowledge and involvement of the Petitioner in the aforesaid forest offence. In that view of the matter, I am not inclined to entertain the writ petition.

6. Accordingly, this writ petition being devoid of any merit stands dismissed.

Urgent certified copy of this order be granted on proper application.

(K.R. Mohapatra)
Judge