

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.460 of 2023

Arising Out of PS. Case No.-20 Year-2022 Thana- BEGUSARAI MUFFASIL District-
Begusarai

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Gautam Yadav Son Of Awadhesh Yadav R/O Village- Bahdarpur Lakho, P.S.-
Muffasil, District- Begusarai

... .. Petitioner/s

Versus

1. The State of Bihar
2. The State Of Bihar Through The Principal Secretary, Department Of Mining,
Patna Bihar
3. The District Mining Officer, Begusarai Bihar
4. The District Collector, Begusarai Bihar
5. The S.H.O., Muffasil Police Station, Begusarai Bihar
6. The Investigation Officer, Muffasil Police Station, Begusarai Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Sabal Kumar Jha, Advocate
For the State	:	Mr.Gyan Prakash Ojha, GA-7
		Mr. Ajit Kumar, AC to GA-7
For the Mines	:	Mr. Naresh Dikshit, Advocate
		Mr. Brij Bihari Tiwary, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 19-12-2023 Heard learned counsel for the petitioner, the

Department of Mines and the State.

2. Petitioner, in the present case, is seeking a direction
to the respondents to release the vehicle being tractor and trailer
bearing Reg. No. B09H-9019 which were seized by the
respondent no.3 for the alleged illegal transportation of the
white sand. In this regard, Muffasil P.S. Case No.20 of 2022 has
been registered for the offences under Sections 379 and 411 of
the Indian Penal Code and Section 56(i)(ii) of the Bihar

Minerals (concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2018 and also under the provisions of the Environmental Protection Act.

3. Learned counsel for the petitioner submits that the petitioner is the owner of the tractor and trailer. He has already deposited the revenue amount with compounding fee as demanded by the office of respondent no.3. In this regard, learned counsel has placed before this Court a copy of the e-challan dated 17.06.2022 (Annexure- '3' to the application) showing deposit of Rs.31,500/-.

4. A counter affidavit has been filed on behalf of the Department of Mines. The department has, after adverting to Rule 56 of the Bihar Minerals (concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019 (hereinafter referred to as the 'Rules of 2019'), taken a plea that in the alleged occurrence of illegal transportation of white sand there was a revenue loss but in terms of proviso to Rule 56(4) of the Rules of 2019, the petitioner has deposited the demanded amount of Rs.31,500/- for purpose of compounding the offence and for release of the tractor and trailer. The only objection to the deposit of the revenue loss and compounding fee amount is with respect to the date as according to the department the

amount has been deposited by the petitioner on 17.06.2022 whereas the alleged seizure took place on 15.01.2022. It is submitted that under proviso to Rule 56(4) of the Rules of 2019 the fine amount and the compounding fee should have been deposited within one month from the date of the alleged occurrence.

5. Having heard learned counsel for the petitioner and the State as also the Department of Mines, this Court finds that earlier the petitioner had moved the court of learned C.J.M., Begusarai and the learned C.J.M. passed an order rejecting the application for release of the vehicle on the ground that the petitioner had not deposited the revenue and compounding fee within a period of one month. The said order was challenged by the petitioner before the court of learned Additional Sessions Judge-1st, Begusarai vide Criminal Revision No.177 of 2022 which was also dismissed.

6. From the pleadings on the record, it is clear that the Department of Mines admits the deposit of the revenue loss and compounding fee amounting to Rs.31,500/- from the petitioner. There is no statement in the counter affidavit of the department that the vehicle in question has been subjected to any confiscation proceeding. In fact, learned counsel for the

Department of Mines has informed that since the deposits were made by the petitioner, no step was taken for initiation of confiscation proceeding.

7. In the aforesaid view of the matter, this Court is of the considered opinion that the department having received the revenue loss and compounding fee would not be justified in keeping the vehicle under seizure. Once they had accepted the amount, it was incumbent upon them to release the vehicle in question.

8. In the facts of this case, the only plea of the department is that the revenue loss and compounding fee were deposited after one month but the question is that if the department has accepted the revenue loss amount and the compounding fee even after expiry of one month period, the department cannot be allowed to take a plea that because money was deposited after one month so the vehicle would not be released. They would be bound by their own action and cannot be allowed to take a plea as per their convenience.

9. In this case, the petitioner was compelled to seek his remedy before a court of law by filing application for release only because the department did not act after receiving the amount which they were looking for. The department opposed

the application of the petitioner in the court of learned C.J.M., Begusarai and then in the court of learned Additional Sessions Judge-1st, Begusarai. Although, this Court is conscious of the fact that the petitioner had a remedy seeking release of the vehicle before the District Magistrate of the concerned district who is also the confiscating authority but the fact remains in this case that no confiscation proceeding was ever initiated. The department has unnecessarily indulged in litigating the matter and did not proceed to release the vehicle even after receiving the entire amount. Such action of the department cannot be approved.

10. This Court, therefore, directs the Department of Mines to release the vehicle in question immediately and pay a cost of Rs.15,000/- to the petitioner for unnecessarily indulging him in litigation seeking release of the vehicle from one court to another. The cost amount shall be paid within a period of thirty days from today. It will be open for the Department to realize this money from the erring officials.

11. This application is allowed.

(Rajeev Ranjan Prasad, J)

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