

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3711 of 2023

1. Kundan Kumar Son of Shiv Chandra Singh, Resident of Ismailpur, Bihat, P.S.- Barauni, District- Begusarai.
2. Piyush Kumar @ Peus Kumar Son of Madan Mohan Singh, Resident of Village and Post- Akbarpur Puranidih, AkbarpurBarari, P.S.- Shamho, District- Begusarai.
3. Pravin Kumar Son of Yogendra Singh, Resident of Village- Shahjadpur, Ward No. 10, Post- Adarsh Laxmipur, Kalianpur, L. Kalyanpur, P.S.- Barahiya, District- Lakhisarai.
4. Himanshu Kumar Son of Vyas Nandan Singh, Resident of Hathidah, Ward No.- 11, P.S.- Hathidah, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Mines and Geology Department, Government of Bihar Patna.
2. The Principal Secretary, Mines and Geology Department, Government of Bihar Patna.
3. The Director General of Police, Bihar, Patna.
4. The Collector, Jamui.
5. The Superintendent of Police, Jamui.
6. The Mineral Development Officer, Jamui.
7. The Motor Vehicle Inspector, Jamui.
8. The District Transport Officer, Jamui.
9. The Station House Officer, Giddhaur Police Station, Jamui.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sudhanshu Trivedi, Advcate. Mr. Vivek Anand Amitesh, Advocate.
For the Mines	:	Mr. Naresh Dikshit, Spl. PP. Mines. Mr. Utrav Anand, Advocate.
For the Respondent/s	:	Mr. Gyan Prakash Ojha, GA-7. Mr. Ajit Kumar, AC to GA-7.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 15-09-2023

Heard Mr. Sudhanshu Trivedi, learned counsel for



the petitioners, Mr. Naresh Dikshit, learned Spl PP for the respondent Mines and Geology Department, Government of Bihar, Patna and Mr. Ajit Kumar, learned AC to GA-7 for the State.

2. The petitioners claimed to be owner of the vehicles, the particulars of which have been duly mentioned in the Paragraph-4 of the writ application, have approached this Court invoking the extraordinary writ jurisdiction of this Court under Article 226 of the Constitution of India seeking a direction upon the concerned respondent authorities for release of their respective trucks seized under the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation and Storage) Rules, 2021 by Mineral Development Officer, Jamui and SHO, Giddhaur police station on 23.11.2022.

3. It is submitted that the petitioners were engaged for transportation of sand and in this connection on 23.11.2022, the trucks of the petitioners were carrying yellow sand from Jamui district to Darbhanga, having valid challan issued by the Bihar State Mining Corporation, however, in the way the trucks were intercepted by Mineral Development Officer, Jamui and SHO, Giddhaur police station. The



petitioners further submit that despite production of valid challan for carrying the sand, the trucks in question were seized and the copy of the seizure lists have been handed over to them, though the same did not bears the signatures of either of the truck drivers or any independent witness. It is further submitted that in similar circumstances the vehicles of different owners were also seized on the same day i.e. on 23.11.2022 by the Mineral Development Officer, Jamui and SHO, Giddhaur police station. The aggrieved persons / owners approached before this court in CWJC No. 1938 of 2023 for release of their vehicles and the learned Coordinate Bench of this Court vide order dated 09.05.2023 having considered the submissions of the parties and after perusing the materials available on record, has been pleased to direct the respondent authorities to release the vehicles in question on furnishing appropriate security as fixed by the Confiscating Officer on the undertaking that the owners of the vehicles will produce the vehicle as and when required or directed by the authorities concern. It is also observed by the learned Coordinate Bench that the Confiscating Officer in fixing the amount of security for release of the vehicle will take into consideration the valuation of the vehicle given in the last insurance policy with



respect to the said vehicle.

4. On the other hand, learned counsel for the respondent nos.4 and 6 by referring to the averments made in the counter affidavit submitted that the trucks of the petitioners have been seized by the authorities for overloading yellow sand and moreover, the driver of the trucks failed to produce any e-challan / transit challan against the sand loaded in the said trucks. He further submits that Chapter-XIV of the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation and Storage) Rules, 2019 deals with the offences and penalties in relation to the illegal transportation and storage of the minerals and Rule 56 of the Rules, 2019 clearly stipulates as follows:

“(1). No person shall extract or remove or undertake any mining operation in any area without holding any mineral concession, permit or any other permission granted or permitted under these rules, or shall transport or store or cause to be transported or store any mineral without a valid challan or license.”

“(2). Whoever contravenes the above sub-Rule shall be punished with an imprisonment for a term, which may extend to two years or with a fine which may extend to five



lakh rupees, or with both.

Provided that the mining office of the District or the Assistant, Deputy Additional Director or Director Mines or any other officer authorized by the Government, may either before or after the institution of the prosecution, compound the offence committed in contravention of the above rule, or payment of cost of mineral and compound fee.”

5. He further submits that subsequent to the seizure of the said trucks, notices were issued by the concerned authorities of the respondent Mines Department to the petitioners, whereby demand to deposit the fine was made in order to get their trucks released and as such, the petitioners had liberty to deposit the fine or in case they were deposited the fine as per valuation made by the respondent authorities in respect to the total loss incurred and on deposit of the amount so calculated by way of the fine, by the petitioners, their respective trucks would have been released.

6. Learned counsel for the State also reiterate the submission made on behalf of the respondent nos.4 and 6.

7. It would be worth mentioning here that while dealing with similar matter, the learned co-ordinate Bench of this Court in the case of Ram Chhavila Kumar Vs. State of Bihar and Ors. (CWJC No. 1064 of 2023) has rightly taken



note of the observations made by the Hon'ble Supreme Court in the case of ***Sunder Bhai Ambalal Vs. State of Gujarat*** reported in [(2002) 10 SCC 283] which reads as follows:

“17. In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.”

8. Having considered the submissions made on behalf of the parties and taking note of the order / judgment rendered by this Court in identical matters, *prima facie*, it appears that keeping the vehicles in question under the open sky to face the vagaries of the weather, would serve no purpose and would only turn them obsolete for any further use and which benefit none rather it would only result in loss. Thus, this Court has no hesitation to allow the present writ application in similar terms of the order dated 09.05.2023 passed in CWJC No. 1938 of 2023.

9. It is needless to observe that in case, the petitioners file an application for release of their vehicle within a period of two weeks from today along with the order of this Court, the same shall be considered and necessary release order would be passed within a further period of two weeks.



10. In view thereof, the present writ application
stands allowed.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.09.2023.
Transmission Date	NA

