

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19091 of 2016

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Sunil Kumar Barnawal, S/o late Durga Lal, Resident of Village- Chandi
Asthan, P.S.- Amas, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Forest Department,
Government of Bihar, Patna.
2. The District Magistrate, Gaya.
3. The Authorised Officer-cum-Divisional Forest Officer, Gaya, Forest
Division, Gaya.
4. The Forest Premises Officer , Sherghati Forest Premises, District- Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Arvind Kumar Singh, Advocate
For the Respondent/s	:	Mr. Raghwanand, GA-11
		Mr. Sanjay Kr. Tiwari, A.C. to G.A-11

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 27-02-2023 Heard learned counsel for the petitioner and learned
counsel for the respondents.

The petitioner has filed the instant application for the
following relief(s):-

*“For quashing of the order dated 13.09.2014
passed in Forest Confiscation Case No.-23 of
2014 by the Court of Respondent No.-3, arising
out of Forest Case No.-38 of 2014, whereby and
whereunder, the Pick-Up Van (Tempo) bearing
No.-BR26F-0375 of the Petitioner has been
confiscated and the prayer for release of said
Pick-Up Van (Tempo) of the Petitioner has been
rejected.”*



The facts giving rise to the instant application are that the pick-up van (*tempo*) bearing registration no. BR 26 F 0375 belonging to the petitioner was caught by the authorities of the Forest Department loaded with Forest wood. The driver of the vehicle was taken into custody, the goods seized as also the vehicle was seized and subjected to confiscation proceedings vide Confiscation Case no.23 of 2014 in the Court of the respondent no.3.

After issuing notice to the respondent (the petitioner herein) who happens to be the registered owner of the vehicle in question and taking into consideration his written submissions as also the material on record, the respondent no.3 in the proceeding under section 52(3) of the Forest Act, 1927 proceeded to confiscate the vehicle in question.

An appeal was preferred by the petitioner before the District Magistrate, Gaya (respondent no.2) which was registered as Appeal no.16 of 2014. After hearing learned counsel for the parties, the respondent no.2, not finding any merit in the appeal was pleased to dismiss the same and upheld the order of confiscation of the vehicle.

It is thereafter that the petitioner has filed the instant application for the relief prayed for as stated herein above.



It is submitted by learned counsel appearing for the petitioner that the authorities concerned in passing the order to confiscate the vehicle in question by order dated 13.9.2014 and in rejecting the appeal preferred against the said vide order dated 1.4.2016 have committed errors. The orders are not sustainable for different reasons, should be set aside and the vehicle released in favour of the petitioner.

It is submitted by learned counsel for the petitioner that the respondent authorities failed to take into consideration the categorical assertion made on behalf of the petitioner to the effect that the wood loaded on the vehicle in question was from the *raiya* land and not forest wood. It was further submitted that an offer of compromise having been made by the petitioner, should have been accepted by the authorities and the vehicle in question should have been released after taking some fine etc. It is further submitted that so far as the order dated 1.4.2016 passed in appeal is concerned, the same suffers from non application of mind by the Appellate Authority. The order neither discusses the case of the parties and has straight away accepted the findings of the respondent no.3 and rejected the appeal without any independent application of mind.

Learned counsel appearing for the respondents



submits that the orders impugned dated 13.9.2014 passed by the respondent no.3 as also the order dated 1.4.2016 passed by the respondent no.2 are both well reasoned orders based on the materials on record. The petitioner has not been able to point out any illegality in the same. There is no merit in the instant application and thus, the same be dismissed.

Having heard learned counsel for the parties and having going through the material on record, it transpires that the vehicle of the petitioner was chased by the authorities of the Forest Department and thereafter caught with forest wood loaded on it. This fact is not in dispute. Further an opportunity to file show-cause was given to the petitioner vide letter no. 2244 dated 7.4.2014 but no reply to the show-cause notice was filed. It appears that it was at this stage of hearing of the Confiscation Case that this story was developed by the petitioner to the effect that the wood being carried on the vehicle in question was from the *raiyati* land and it was not forest wood. Once again as is evident from the order impugned dated 13.9.2014 as also the contents of the petition, no document/proof/evidence have been brought on record to substantiate this stand of the petitioner. In the facts of the case, the Court does not find any illegality in the order dated



13.9.2014 passed in the Confiscation Case. Further so far as the order passed by the Appellate authority is concerned, the Court finds that the respondent no.2 has not only given the facts of the case but also spelt out in his order the respective case of the parties including that of the petitioner and has finally come to the conclusion of there being no illegality in the order passed confiscating the vehicle in question of the petitioner.

Thus, having heard learned counsel for the parties and having gone through the material on record, this Court finds no illegality in the order dated 13.9.2014 (Annexure-1) passed in Confiscation Case no. 23 of 2014 by the respondent no.3 confiscating the vehicle in question belonging to the petitioner nor in the order dated 1.4.2016 (Annexure-2) passed in Forest Appeal no.16 of 2014 by the respondent no.2 rejecting the appeal preferred by the petitioner.

There being no merit in the instant writ application, the same is dismissed.

(Partha Sarthy, J)

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