

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8199 of 2023

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Ravi Kumar Singh Son of Shree Narain Singh, Resident of Baisora, PO Ankaripur, PS Gosaiganj, District Faizabad(now Ayodhya), Uttar Pradesh-224141.

... .. Petitioner/s

Versus

1. The State of Bihar .
2. Additional Chief Secretary-cum-mining Commissioner, Mines and Geology Department, Government of Bihar, Patna.
3. District Magistrate, Kaimur at Bhabhua.
4. Additional District Magistrate, Kaimur at Bhabhua.
5. District Mining Officer, Kaimur at Bhabhua.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ravi Ranjan, Adv.
For the State	:	Mr. Gyan Prakash Ojha (GA 7) with Mr. Ajit Kumar, AC to GA 7
For the Mines	:	Mr. Naresh Dikshit, Spl. P.P. Mines with Mr. Brij Bihari Tiwari, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 05-10-2023

Heard Mr. Ravi Ranjan, learned counsel appearing on behalf of the petitioner and Mr. Naresh Dikshit, learned Special P.P. for the Mines. Learned counsel for the State is also present.

2. The petitioner claims to be the owner of the truck bearing Registration No. UP42BT4666 and Chassis No. MAT541068J1E17406 has preferred the present writ application seeking following reliefs:

“i. For issuance of an appropriate writ in the nature of Mandamus, commanding and directing the Respondent Authorities to release the truck of petitioner bearing registration no. UP42BT4666 which has been illegally been seized by the Respondent authorities in Kaimur in gross contravention of all prescribed statutory



requirements for past one month and has been kept in open area beside highway.

ii. For a declaration that if a statute prescribes a particular act to be done in a particular manner then it should be done in that manner alone or not at all, any other mode is not only prohibited but same becomes an illegality.

iii. For issuance of any other appropriate order/orders, writ/writs, direction/directions for which the writ petitioner is entitled under the facts and circumstances of the case.”

3. The short facts which led to the filing of the present writ petition is that the vehicle in question was being engaged in transportation of goods including sand and mineral. On 04.05.2023, the driver of the petitioner's truck picked up yellow sand from Shehspura Ghat of Barun of Aurangabad district and after following all the procedure, challan for same was procured at 11:19 a.m. on 04.05.2023 itself. The said e-challans were valid for 12 hours period. However, when the said truck crossed Mohania Kaimur Highway Toll Plaza it was intercepted by the District Mining Officer. On demand being made, the necessary papers/documents along with copy of the challan was duly produced to the officers who were present there. However, the said truck was purposely made to stand there at said spot whole night and in the next date i.e., 05.05.2023 when the petitioner approached the respondent Mining Officer he was asked to pay penalty of about Rupees Three Lakhs. The petitioner tried to



clarify the position but to no avail. He further submits that even otherwise neither any seizure list nor any paper concerning the truck being taken over by the mining authorities has ever been handed over to the petitioner or his authorized person till date which is in complete transgression of Rules 56 of Rules 2019. The petitioner, on being put to harassment at the behest of District Mining Officer, also filed complaint(s) to all the concerned, in response thereto he received a letter dated 30.05.2023 issued under the Signature of the Additional District Magistrate, Kaimur whereby the petitioner was asked to bring evidence on 30.05.2023 to prove his allegation against the Mining Officer, Kaimur at Bhabhua. The petitioner appeared and produced all the proofs in support of his claim but no action has been taken till date.

4. During the pendency of the writ petition, the respondent District Mining Officer vide his letter contained in Memo No. 657 dated 26.07.2023 recommended for confiscation of the truck in question, based upon which the District Magistrate, Kaimur initiated Mining (vehicle confiscation) Case No. 11 of 2023 and the notice was issued. The petitioner assailed the initiation of the proceeding arising out of Mining (vehicle confiscation) Case No. 11 of 2023 on the ground that



no case for confiscation is made out at all, by filing Interlocutory Application No. 1 of 2023.

5. Various averments have been made in the writ petition and the Interlocutory Application in support of his defence that the vehicle was seized in illegal manner without following the procedures under the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules 2019. He lastly submits that the petitioner's vehicle is standing in open sky since the date of its seizure, causing huge financial loss. That apart unauthorised seizure of the vehicle has been held to be national loss as observed by the Hon'ble Supreme Court as also by this Court in catena of decisions, hence the present writ petition for release of the vehicle in question at the earliest.

6. On the other hand, Mr. Naresh Dikshit, learned Special P.P. for Mines while refuting the contention of the petitioner submitted that the story as stated by the petitioner is contrary to the materials available on record as the petitioner was apprehended along with the minor mineral having no valid challan. He vehemently submitted that in case of seizure of the property or vehicle, the offender is under statutory obligation to ensure the payment of fine within a period of one month, but the



same has not been done and now the confiscation proceeding has already initiated, thus the District Magistrate, Kaimur is the Competent Authority to consider the grievance of the petitioner for release of the vehicle and for passing appropriate order in this matter, if the petitioner is ready to deposit the fine as prescribed under the Rules of 2019.

7. Learned counsel for the State also reiterates the submissions made on behalf of the learned Spl. P. P. for Mines.

8. This Court has carefully considered the submissions made on behalf of the parties. The vehicle, in question, of the petitioner has been allegedly seized during the illegal transportation of the sand, though the same has been denied by the petitioner. A hard fact has been placed before this Court that vehicle is lying unattended under the open sky facing the vagaries of the weather, as a result of which the condition is fast deteriorating and in case of its non release, on any appropriate condition, it may get damaged and become junk. Furthermore, the petitioner has also given his bona fide undertaking that he will fully co-operate in the proceeding.

9. It would be worth noting 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) while directing for provisional release of the vehicle 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.”

10. This Court is of the opinion that since the matter is pending adjudication before the statutory authority no observation is required on the merit of this case. However, taking note of the aforesaid facts that the vehicle is lying in open, uncared for, expose to vagaries of whether, resulting into fast deterioration of its condition and turning it to a junk and obsolete, which would certainly benefit none, rather it would lead to losses, this Court deems fit and proper to order for provisional release of the vehicle, bearing Registration No. UP42BT4666, subject to furnishing of supporting papers of ownership and security as deem fit and proper by the authorized officer and the release obviously would be subject to final outcome of the confiscation proceeding.



11. It is further directed that the petitioner will ensure his appearance in confiscation case pending before the District Magistrate, Kaimur on the date fixed in the case and shall fully co-operate in the said proceeding.

12. The Confiscating Officer while fixing the bond for release of the vehicle, in question, shall take into consideration the value of the vehicle as mentioned in the last insurance policy of the vehicle.

13. The petitioner will also give his undertaking that he will not create any third party right and to produce the vehicle in the confiscation case as and when required/directed.

14. It is made clear that the provisional release of the vehicle as directed hereinabove, by the Confiscating Officer shall be effected within a period of two weeks from the date of receipt/production of a copy of this order.

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

16. Interlocutory Application, if any, stands disposed of.

(Harish Kumar, J)

Anjani/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	10.10.2023
Transmission Date	N.A.

