

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5742 of 2024

Md Saifullah Alam, son of - Ajajuddin Miyan, Resident of village - Babhani Kalan,, P.S.- Adhaura, District- Kaimur.

... .. Petitioner/s

Versus

1. The State of Bihar through The Principal Secretary, Department of Forest, Government of Bihar, Patna.
2. The District Magistrate, District - Kaimur at Bhabua.
3. The Authorized Officer cum Divisional Forest Officer, Kaimur forest Division, Bhabua.
4. The in-charge conservator of forest, Kaimur Kaimur Forest Division, Bhabua.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Parwej Khan, Advocate
For the Respondent/s : Mr. Government Pleader (06)

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 12-09-2024 Heard learned counsel for the petitioner, Mr. Parwej Khan as also Ms. Archana Meenakshi, learned GP-06.

2. The present writ petition has been preferred for the following relief(s) :

“ for issuance of a writ in nature of certiorari for setting aside the order dated 22/02/2024 passed in forest confiscation case no. 58/2023 arising out of forest P.S. case no.- 81F/2023, dated 03/12/2023, under section 33,41,42 of Forest Act 1927 by which the respondent no.- 3 has passed order and directed to confiscate the vehicle in question i.e.. UP-64BT-9324 pick up van, under



section 52 (3) of Indian Forest Act, 1927(Bihar forest Act 1989, Amended) and also for issuance of a writ in nature of Mandamus to the respondents to release the vehicle in question of the petitioner in favour of the petitioner as no wrong act has been done by the vehicle in question and the respondents have failed to prove that the so called seized Mahuwa flower is forest property and / or pass any other order/ orders, which may deems fit and proper in the fact and circumstances of the case.”

3. The truck in question was seized having *Mahua Flower* and as no document was produced and it was near the reserved forest, the vehicle was seized.

2. Subsequently the confiscation proceeding no. 81F of 2023 (*State Vs. Md Saifullah Alam & Anr.*) was initiated in which order kept to be passed on 22.02.2024 (Annexure-P/5) to the petition.

3. Though learned counsel for the petitioner wanted to assail the order in the writ petition, the learned State counsel submitted that the petitioner has missed the appellate remedy.

4. The learned counsel for the petitioner submits that



he shall be filing an appropriate appeal but since the petitioner was pursuing the remedy in the writ petition, the time stipulated has lapsed.

5. The submission of the petitioner is worth consideration. The facts remains that within 90 days of the order dated 22.02.2024, the petitioner has preferred the writ petition which was pending before Patna High Court, in that background, if the petitioner prefers an appeal before appropriate Appellate Authority in next four weeks, the concerned authority shall take up appeal along with the limitation petition and pass an appropriate order considering that the petitioner had preferred the writ petition within that time-frame stipulated for filing the appeal.

6. The writ petition stands disposed of with a direction to the Appellate Authority to take up the matter, if the appeal is preferred in next four weeks and pass a reasoned order at an earliest preferably within a period of four months.

(Rajiv Roy, J)

Vijay Singh/-

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