

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15401 of 2022

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1. Pradeep Kumar Sharma son of Dilip Kumar Sharma, Resident of Milki, Milki, Bihpur, Bihar, Bhagalpur, P.O. and P.S.-Bihpur, District-Bhagalpur.
 2. Dilip Kumar Sharma, Son of Mahadev Sharma, Resident of Milki, Milki, Bihpur, Bihar, Bhagalpur, P.O. and P.S.-Bihpur, District-Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Bihar, Patna.
2. Secretary Department of Forest and Environment Bihar, Patna.
3. Principal Chief Conservator of Forest, Bihar, Patna.
4. Conservator of Forest, Bhagalpur.
5. Divisional Forest Officer, Bhagalpur Division, Bhagalpur.
6. Range Officer, Bihpur, Nawgachhiya, Bhagalpur.
7. Forester, Bihpur, Nawgachhiya, Bhagalpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Aditya Prakash Sahay, Advocate
For the Respondent/s	:	Mr. Dhurjati Kumar Prasad, GP- 14
	:	Mr. Jahan Ara, AC to GP-14

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 19-02-2024 Heard Mr. Aditya Prakash Sahay, learned Counsel

 appearing on behalf of the petitioners and Mr. Dhurjati Kumar

 Prasad, learned GP- 14 along with Mr. Jahan Ara, learned AC to

 GP-14 appearing on behalf of the respondent/s.

2. The present writ petition has been filed for the

following relief/s:

i. For issuance of order(s)/direction(s)/writ(s)
particularly in the nature of writ of Mandamus directing
respondent authorities for releasing the seized articles
including tractor, as the seizure of the impugned articles
including tractor is illegal and arbitrary, reason behind is the
purpose for which it was used was legal and done with due

process of law with prior approval and under the written direction of the Circle Officer for which the Annexures are duly attached date wise, a tender was floated in which petitioner was selected as the highest bidder consequently he was asked to pay the bidding amount, complying with the same he was directed to cut the trees upon the disputed land by the Circle Officer.

ii. For issuance of order(s) not to take any coercive steps against the petitioners.

3. Mr. Aditya Prakash Sahay, learned counsel appearing on behalf of the petitioners informed this Court that the office order dated 19.07.2022 considering to be without jurisdiction, a departmental proceeding has been initiated against the Circle Officer, Bihpur, Bhagalpur and as such, the notice contained in Memo No.6 dated 19.07.2022 to be issued without jurisdiction, is also held to be without authority of law and the same is required to be set-aside and quashed. However, the petitioner who has deceived by the Circle Officer and the cutting of trees standing on Government land for the purpose of making the land vacant for constructing houses for displaced person, so he had disposed not only earnest amount but also the entire security amount as per the bidding held for the said purpose. Learned counsel however admitted that he has not brought on record the amount as claimed by the petitioners to have been deposited by him by way of Treasury Challan to the Government. That being the case, learned counsel seeks to file representation before the District Magistrate for refund of

amount of security deposit if any earnest money or the entire amount the petitioners have deposited, which he has not disclosed in the writ petition by making any statement or bringing on record the settlement copy.

4. Considering the aforesaid submission made on behalf of the petitioners, vide Memo No.6 dated 19.07.2022, a disciplinary proceeding has been initiated against the Circle Officer, Bhagalpur, this Court finds that the said has been done primarily for two reasons. Firstly, the trees were on the Government land and as per the provision of Section 32 of the Indian Forests Act, 1927 (hereinafter referred to as the 'Act'), is a government property and power to grant the permission can be granted by the Divisional Forest Officer and thereafter, the District Magistrate can carry-on to come out with a notice for cutting or felling of trees, as per the necessity of the beneficiary scheme, which has not been denied by the State and secondly, the Circle Officer, having by-passed all the required statutory requirements in accordance with the provision of the Act, has exceeded his jurisdiction for which he is facing a departmental proceeding, as informed by the learned counsel appearing on behalf of the petitioners. Therefore, it is admitted by the parties that the felling of trees has been in gross violation of the

provisions of the Act and only the petitioners can not be held responsible for the same in view of Annexure 1.

5. Considering the rival submissions made by the parties, the Memo no.6 dated 19.07.2022, being without jurisdiction, is hereby set-aside and quashed and the only course remains that the respondent/s should return-back the bidding amount along with the security deposit, if any, to the petitioners within a period of two weeks from the date of filing of the application for the said purpose before the District Magistrate, Bihpur, Bhagalpur in accordance with law.

6. The petitioners, on these grounds, may file representation before the Divisional Forest Officer for passing necessary order in accordance with law.

7. With the aforesaid direction(s)/observation(s), the present writ petition stands disposed of.

(Purnendu Singh, J.)

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