IN THE HIGH COURT OF JHARKHAND, RANCHI
W.P. (Cr.) No. 472 of 2024

Shyam Manohar Singh, aged about 58 years, son of Jhari Singh, resident of Sector IX/C, Street -18, Q. No.69, PO and PS – Harla, District – Bokaro, Jharkhand **.... Petitioner**

-- Versus --

1. The State of Jharkhand through the Secretary, Department of Mines and Geology, Government of Jharkhand, Yojana Bhawan, PO and PS – Doranda, District – Ranchi, Jharkhand

2. The Deputy Commissioner, Bokaro, P.O. P.S. – Chas and District – Bokaro, Jharkhand

3. The District Mining Officer, Bokaro, P.O. P.S. – Chas and District – Bokaro, Jharkhand **.... Respondents**

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioner :- Mr. Rahul Kumar, Advocate
For the State :- Mr. Deepankar Roy, Advocate

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*05/**07.12.2024*** Heard learned counsel appearing for the petitioner and learned counsel appearing for the respondent State.

2. The prayer in this petition is made for quashing of the order dated 13.04.2024 passed in Confiscation Case No.28/2023-24 by the Deputy Commissioner, Bokaro pending in the Court of learned ACJM, Bokaro whereby the Tractor of the petitioner having registration No. JH-09-AX-3159 has been confiscated.

3. Learned counsel appearing for the petitioner submits that the said tractor was seized in connection with Marafari P.S. Case No.87 of 2022 and the allegations are made that 100 cft. of sand was being carried and the case was registered under different Sections of IPC as well as the Jharkhand Mines and Minerals Concessions Rules and sub-

section 4A of the Section 21 of Mines and Minerals (Development and Regulation) Act as well as Rule 9/13 of Jharkhand Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules. He further submits that based on the strength of Rule 11(v) of the Jharkhand Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2017 the Deputy Commissioner has passed the order which has been declared *ultra vires* by the Division Bench of this Court by order dated 02.07.2024 passed in W.P. (C) No.6788 of 2023. He then submits that the confiscation can only be made by a Court, who is competent to take cognizance in the light of sub-section 4A of the Section 21 of Mines and Minerals (Development & Regulation) Act, 1957.

4. Learned counsel appearing for the respondent State submits that allegations are there of illegally carrying the sand, however, he is not disputing the submission with regard to Rule 11(v) of the Jharkhand Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2017 which has been declared *ultra vires* by the Division Bench of this Court.

5. In view of the above and considering that based on the strength of Rule 11(v) confiscation order has been passed and that has already been declared *ultra vires* by the Division Bench of this Court by order dated 02.07.2024 passed in W.P. (C) No.6788 of 2023 and further in light of sub-section 4A of the Section 21 of Mines and Minerals (Development & Regulation) Act, 1957, the Court who is competent to take cognizance can direct to confiscate the vehicle in question and based on this principle of law several petition have been allowed by this Court, as such the order dated 13.04.2024 passed in Confiscation Case No.28/2023-24

by the Deputy Commissioner, Bokaro is hereby quashed.

6. So far as the release of the vehicle is concerned, the same shall be released in favour of the petitioner on the undertaking on the following terms and conditions:

(i) *The petitioner shall furnish indemnity bond to the satisfaction of the learned Court.*

(ii) *One of the sureties must be a resident and owner of a commercial vehicle of District Bokaro (Jharkhand).*

(iii) *The petitioner shall not sale, mortgage or transfer the ownership of the vehicle on hire purchase agreement or mortgage or in any manner.*

(iv) *He shall not change or tamper with the identification of the vehicle in any manner.*

(v) *He shall produce the vehicle as and when directed by the learned trial court.*

7. The aforesaid conditions are the subject to the final result of the criminal proceeding arising out of Marafari P.S. Case No.87 of 2022 pending in the Court of learned ACJM, Bokaro.

8. Accordingly, this petition is allowed in above terms and disposed of.

(Sanjay Kumar Dwivedi, J.)

Sangam/