

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6362 of 2021

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Bir Bahadur Upadhyaya, son of Kanhaiya Upadhyay, resident of village-
Sewahi, P.S.-Tilauthu, District-Rohtas at Sasaram.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Environment and Forest Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Environment and Forest Department, Govt. of Bihar, Patna.
3. The District Magistrate, Rohtas at Sasaram.
4. The Divisional Forest Officer-cum-District Forest Officer, Rohtas at Sasaram.
5. The Forest Range Officer, Tilauthu, Rohtas at Sasaram.

... .. Respondents

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Appearance :

For the Petitioner : Mr. Babu Nandan Prasad, Advocate
For the Respondents : Mr. Jay Prakash Sharma, A.C. to G.P.-21

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
C.A.V. JUDGMENT
Date : 10-12-2025

The petitioner has moved this Court for the
following reliefs:-

- i. To issue writ/writs, order/orders, direction / directions including a writ in the nature of certiorari for quashing the order dated 03.11.2016 passed by respondent D.F.O., Rohtas at Sasaram, vide Forest Confiscation Case no. 52/2016 (A & B) arising out of Forest Case No.18/2016 (as contained in Annexure-3) whereby and whereunder the vehicle Mahindra Tractor bearing registration no. BR-24G-9914 along with Trolley No.BR-24G-9922 of the petitioner has been confiscated and further to*



quash the order dated 05.06.2018 passed in Forest Confiscation Appeal No.79 of 2016 (as contained in Annexure-4) by which the Forest Confiscation appeal preferred by the petitioner and the order of Forest Confiscation Appeal of the vehicle has been dismissed, which has been affirmed by the respondent District Magistrate, Rohtas at Sasaram and also to quash the revisional order dated 13.10.2020 passed in Forest Confiscation Revision Case No.10 of 2020 by the respondent Principal Secretary, which has been dismissed and the order has been communicated to the petitioner as contained in Annexure-5 to this writ petition.

- ii. To issue a writ/writs, order/orders, direction/directions including a writ in the nature of mandamus directing the Respondents to release finally the aforesaid vehicle Mahindra Tractor bearing Registration No. BR-24G-9914 along with Trolley bearing Registration No. BR24G-9922 in favour of the petitioner.”*

2. Based on the information received from the S.H.O. of Tilauthu Police Station, the forest officials apprehended two tractors which were loaded with stone chips and thereafter the tractor of the petitioner bearing registration No. BR-24G-9914 along with trailer / trolley bearing registration no. BR-24G-9922 was seized under sections 33, 41 and 42 of the Indian Forest Act. Accordingly, the Forest Confiscation Case No.52 of 2016 was initiated against the petitioner. The



Divisional Forest Officer, vide impugned order dated 03.11.2016 confiscated the tractor and trailer/trolley of the petitioner. Against the aforesaid order, the petitioner filed an appeal, which was dismissed vide impugned order dated 05.06.2018. Against the order passed in appeal, the petitioner preferred a revision application before the revisional authority, which too was dismissed vide impugned order dated 13.10.2020.

3. At the outset, the learned counsel for the petitioner submits that the authorized officer seizing the vehicle had deliberately not mentioned the registration numbers of the tractor and trailer/trolley of the petitioner.

4. It is submitted by learned counsel for the petitioner that four tonnes of stone chips were loaded on the tractor of the petitioner from the premises of one M/s. Mandeya Mashihani, Chatarpur, District- Palamu, State-Jharkhand. The aforesaid stone chips were being carried on the strength of a transit *challan* which was purchased by the petitioner and the stone chips were being carried for the purpose of construction of a temple situated at village- Sewahi, which is evident from the *challan* itself.

5. It is the categorical submission of learned



counsel for the petitioner that the vehicle of the petitioner was neither seen coming out of nor going into a protected forest area and rather the same was seized from the road side. Further, the petitioner was duly carrying *challans* and necessary road permits, despite the same the tractor and trailer/trolley were confiscated by the respondent authorities.

6. It is the submission of learned counsel for the petitioner that the petitioner had duly appeared before the authorized officer-cum-Divisional Forest Officer, Rohtas, and filed his reply to the show-cause and got himself examined as a witness. It is emphasized by learned counsel for the petitioner that despite the fact that no witness was examined on behalf of the Forest Department, the authorized officer-cum-Divisional Forest Officer, Rohtas, has proceeded to pass the impugned order dated 03.11.2016 mechanically, by which the tractor and trailer/trolley of the petitioner were confiscated, which has been affirmed by the appellate authority and sustained by the revisional authority.

7. The learned counsel for the petitioner has placed reliance on a decision dated 06.08.2019 passed by a coordinate Bench of this Court in '*Amar Nath Singh vs. State of Bihar & Ors*' (C.W.J.C. No.4270 of 2018).



8. It is emphasized by the learned counsel for the petitioner that another truck of the petitioner was also seized and the action of the respondents was challenged by the petitioner before this Court in ***C.W.J.C. No.14259 of 2024*** titled as ***'Dharmendra Kumar vs State of Bihar and Ors.'*** and a coordinate Bench of this Court vide judgment and order dated 29.05.2025 has allowed the writ petition by a detailed order.

9. The State by filing a counter affidavit has supported the impugned order of confiscation, which has been affirmed by the appellate authority and finally sustained by the revisional authority and submitted that the impugned orders do not suffer from any illegality or infirmity and therefore, this Court may not interfere with the impugned orders.

10. I have considered the submissions of the parties and perused the materials on record.

11. A coordinate Bench of this Court in ***Amar Nath Singh (supra)*** had held as under:-

Submission of the petitioner is that his truck was confiscated by the Confiscating Officer, from Kochas Chowk for which Kochas P.S. Case No.3 of 2015 was registered. Petitioner is owner of commercial Truck bearing Registration No. UP-64-H-7353 which was loaded with stone chips, for which,



Challan No. 0056549 was issued by Lallu of Baradih Mines, Maa Bhandari, Ahraura, Mirzapur (U.P.) which was purchased by Amit of Jagdishpur (Bihar.) The District Panchayat, Mirzapur, Varanasi and Chandauli have issued receipts No.41774, 2092 and 14191 on 26.12.2014 respectively for carrying mines materials.

The driver of the vehicle produced Challan before the Confiscating Authority and made request to release the truck, but, the aforesaid truck was not released by him.

*This Court finds from perusal of the orders of confiscating authority, Appellate Authority and Revisional Authority that none of them have considered the challan submitted by the petitioner in proper perspective. The Revisional Court has disbelieved the papers only on the ground that photocopies of all documents which were submitted with the show cause, their original copies were not shown at the time of seizure in Thana which indicates that these papers were procured after seizure of the vehicles. **It is admitted position that vehicle was seized from Kochas Chowk which was not declared as Forest Area. The Truck of the petitioner was loaded with stone chips which is not forest produce.***

Therefore, there is no violation of Section 33 of Indian Forest Act. There are separate Provisions under Sections 9(2) and Section 40 of the Minor Mineral Concession



Rules, 1972, for removing the minor mineral.

Therefore, this Court is of the view that order dated 19.3.2015 passed by the District Forest Officer, Rohtas (Annexure-3) in Confiscation Case No. 18 of 2015, order dated 3.5.2016 passed by the Appellate Authority in Forest Confiscation Appeal No. 37 of 2015 and the Revisional Order dated 03.11.2017 passed by the Principal Secretary, Environment and Forest Department, Bihar, Patna, in Forest Revision Case No. 21 of 2016 are not in accordance with law. They have not been passed after proper consideration of facts and documents submitted by the petitioner. The petitioner has produced valid challan for loaded stone chips on the truck in question.

Therefore, the aforesaid orders as contained in Annexure-3, 4, and 5 are hereby set aside.” (emphasis supplied).

12. Recently, a coordinate Bench of this Court vide judgment and order dated 29.05.2025 passed in the case of ***Dharmendra Kumar (supra)*** while considering the matter relating to another vehicle of the petitioner himself, has held as under:-

“6. Having heard the learned counsels for the parties and perused the material available on record, this Court, therefore, holds that the truck of the petitioner was loaded with 600 cft. stone chips thereon



from the business premises of M/s Prakash Stone Works, Billi, Markundi, Gitti/Bolder, Sonbhadra, Uttar Pradesh on 11.11.2016 along with sale invoice and on the strength of which the consignment of stone chips was being carried from Uttar Pradesh to Arwal, Naubatpuri, Bihar and despite of the valid challan, the authority did not take any notice of the sale challan as well as road permit of the State of Bihar and the truck of the petitioner was wrongly confiscated by the authority concerned and despite of showing the aforesaid documents before the authority concerned. Section 30 of the Forest Act applies only when stone chips are brought from forest protected area in contravention to Section 30 of the Act but in the present case the truck was seized from G.T. Road, Karwandiya which is out of Forest Protected Area, so no case is made out under the Forest Act. The authority concerned have wrongly confiscated the truck of the petitioner, the orders dated 28.06.2017 (Annexure-P/3), 11.02.2020 (AnnexureP/4) and 30.05.2023 (Annexure-P/6) are set aside and the truck in question bearing registration no. BR-01GA/5237 which was released vide order dated 26.10.2018 in C.W.J.C. No. 10467 of 2018 in Cr.W.J.C. No. 998 of 2018 (Annexure-5).



7. *The writ petition is allowed and the petitioner is free from all the undertakings as given pursuant to the direction of this Court vide order dated 26.10.2018 passed in C.W.J.C. No. 10467 of 2018 in Cr.W.J.C. No. 998 of 2018 with respect to truck in question.”*

13. In the present case, the petitioner was carrying valid *challan* along with necessary papers. Further, the seizure memo indicates that the tractor and trailer/trolley of the petitioner loaded with stone chips were seized from the concrete road near Sewahi village where a temple was being constructed.

14. Considering the aforesaid facts and on going through the afore-quoted two decisions of this Court, I find no reason to disagree with the aforesaid decisions of this Court. Hence, this writ application is allowed.

15. Accordingly, the impugned orders i.e., order dated 03.11.2016 passed by the Divisional Forest Officer, Rohtas at Sasaram; the order dated 05.06.2018 passed by the District Magistrate, Rohtas at Sasaram and the order dated 13.10.2020 passed by the revisional authority are hereby quashed and set aside.

16. The respondent no.4 i.e. the Divisional Forest Officer, Rohtas at Sasaram is directed to release the



tractor and trailer/trolly of the petitioner bearing registration No. BR-24G-9914 & BR-24G-9922 respectively in favour of the petitioner forthwith subject to the condition that the petitioner will furnish the necessary documents of ownership of the aforesaid tractor and trailer/trolly.

(Sandeep Kumar, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	24.11.2025
Uploading Date	10.12.2025
Transmission Date	

