

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3966 of 2025

Imtiaz Ali@ Imteaz Ali son of late Hanif Miyan, resident of Village-Lakhna,
P.S.-Barhi, Distt-Hazaribagh, Jharkhand.

... .. Petitioner

Versus

1. The Union of India through the its Secretary, Ministry of Environment and Forest, New Delhi.
2. The State of Bihar through The its Secretary, Department of Environment, Forest and Climate Change.
3. The District Magistrate, Nawada.
4. The Sub-Divisional Magistrate, Nawada.
5. Anchal Adhikari, Rajauli.
6. The Chief Conservator of Forest, Nawada.
7. The Divisional Forest Officer, Rajauli.
8. The Divisional Railway Manager, East Central Railway, Dhanbad, DEN (Divisional Engineer) occupies its place in the office of Divisional Railway Manager Dhanbad, Union of India.
9. The General Manager (P) East Central Railway Zone, Hajipur at Bihar.
10. Narshing Construction Private Limited having its registered office at Archana Nagar, Ghasiadih, P.O.-P.S. Rajauli, Nawada, Bihar.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Amiya Kunal, Advocate
For the Union of India	:	Mr. Amish Kumar, CGC
For the State	:	Mr. Prashant Pratap, G.P.-2

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 03-11-2025 Heard learned counsel for the petitioner and
learned counsel for the State.

2. By way of this writ petition, the petitioner
has prayed for the following reliefs:

*“(A) for directing the respondent authorities,
specially the forest and the state*



authorities to immediately release the excavator machine bearing model number EX215LC Super Plus (as per tax invoice at Annexure - Pl @ page 18) as the said act on part of the respondent state authorities in seizing the said excavator machine and not identifying the same is in complete violation of statutory rules and regulations, de hors the statutory rules and regulations, and therefore, violative of Articles 14, 19, and 21 of the Constitution of India, and therefore, the respondent authorities are duty bound to release the said excavator machine belonging to the petitioner, as referred above, immediately:

(B) for holding and declaring the action and inaction on the part of the respondent authorities in seizing the excavator machine belonging to the petitioner being model number EX215LC Super Plus (as per tax invoice at Annexure-P-1 at page 18, despite time of 45 days period having been lapsed, and thereafter not releasing the same is illegal, arbitrary, against the statutory rules and regulations, violative of fundamental rights of the petitioner under article 14, 19(1)(g) and 21 of the Constitution of India and therefore the respondent authorities are duty bound to release the same as the said seizure is incomplete and fragrant violation of statutory rules and regulations, referred



hereinabove;

(C) for a writ, particularly in the nature of Certiorari, for quashing and setting aside Confiscation Case number-07/2024, pending in the Court of Licensing Officer-cum-Divisional Forest officer, Nawada Forest, Division, Nawada in G.O. Case No. 73/24.

(D) for a writ, particularly in the nature of mandamus, commanding and directing the respondent to release the excavator bearing model number EX215LC Super Plus belonging to the petitioner after taking appropriate securities or conditions as laid down by the order passed by this Hon'ble Court in LPA number 306/2017 and LPA No. 624 of 2017 and LPA No. 1647/2015.

(E) During the pendency, hearing and final disposal of the present petition, your lordships may be pleased to direct the respondent authorities to immediately release the excavator machine belonging to the petitioner being model number EX215LC Super Plus (as per tax invoice at Annexure-A).

3. Learned counsel for the petitioner submits that the petitioner was neither made a party in the confiscation proceeding nor he was issued any notice in the aforesaid confiscation proceeding.



4. Learned counsel for the petitioner has submitted that the respondent authorities have failed to correctly identify the seized excavator machine of the petitioner and also failed to inform the petitioner who is the lawful owner of the said machine. Drawing strength from the decision of the Hon'ble Supreme Court in the case of *Shento Verghese vs. Julfikar Husen & Ors.* reported as **2024 SCC OnLine SC 895**, learned counsel for the petitioner has submitted that the procedural lapses in reporting the seizure vitiates the confiscation proceeding.

5. Learned counsel for the State has opposed the application.

6. I have considered the submissions of the parties and perused the material on record. I have also gone through the judgment and order passed by the Division Bench of this Court in *L.P.A. No.1637 of 2015 (Baleshwar Roy vs. The State of Bihar & Ors.)*.

7. It appears that the machine of the petitioner was seized on 16.05.2024 and thereafter confiscation proceeding was initiated without making the petitioner as a party to the said proceeding, who is the lawful owner of the said machine.



8. Considering the aforesaid, the petitioner is at liberty to pursue his remedies in accordance with law against the aforesaid confiscation proceeding. In my opinion, no fruitful purpose will be served in keeping the truck of the petitioner seized, which is kept in the open sky.

9. Considering the aforesaid facts and also the law laid down by the Hon'ble Supreme Court in the case of ***Sunderbhai Ambalal Desai vs. State of Gujrat*** reported as **2002 (10) SCC 283** and also the decision of the Division Bench of this Court in ***L.P.A. No.1637 of 2015 (Baleshwar Roy vs. The State of Bihar & Ors.)***, the vehicle of the petitioner i.e. Hydraulic Excavator Model EX215LC Super Plus be released in favour of the petitioner, subject to the following conditions:

- (i) *The petitioner shall furnish all the necessary papers/documents of ownership of the machine and security bonds as may be deemed fit, proper and reasonable by the concerned authority.*
- (ii) *The petitioner shall undertake, in writing, that the vehicle, in question, shall neither be alienated nor be transferred/sold in favour of any third party during the pendency of the proceeding and that the vehicles, in question, shall be produced as and when called upon or required in the proceeding or otherwise.*
- (iii). *If any jurisdictional objection is taken by the petitioner, that shall*



also be considered by the authority concerned. The petitioner will also co-operate with the authorities till disposal.

10. This writ petition is disposed of with the aforesaid observations and directions.

(Sandeep Kumar, J)

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