

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7721 of 2023

Ashok Kumar Singh BALI Son of Baliram Singh, Ram Singh Resident of Village -Reriya, P.S -Chenari, District -Rohtas, At Present -Resident of Village-Jahanabad, Kudra, P.S -Kudra, District -Kaimur (Bhabua).

... .. Petitioner/s

Versus

1. The State of Bihar through the Commissioner Mines, Government of Bihar, Patna.
2. The Commissioner Mines and Geology Department, Government of Bihar, Patna.
3. The Assistant Director Mines and Geology Kaimur, Bhabua.
4. The Mines Development Officer-Cum- District Mines Officer, Kaimur (Bhabua).
5. The Mines Inspector, Kaimur a (Bhabua).
6. The District Magistrate Cum Collector, Rohtas, Sasaram.
7. The Assistant Director, Mines and Geology, Rohtas, Sasaram.
8. The Mines, Development Officer Cum District mines Officer, Rohtas, Sasaram.
9. The District Transport Officer, Rohtas, Sasaram.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Prakash Ranjan Sinha
	:	Mr.Narendra Kumar
	:	Mr.Akash Ambuj
	:	Ms.Anushka Kumari
For the Respondent/s	:	Mr.Gyan Prakash Ojha (Ga7)

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT
Date : 24-11-2025

Heard learned counsel for the petitioner, learned
counsel for the Mining Department and the State.

2. The present writ petition is preferred
assailing the order dated 26.08.2022 passed by the Mines
Commissioner as well as the order dated 11.10.2021 passed by
the Collector-cum-District Magistrate, Kaimur at Bhabua in
vehicle confiscation case no. 01 of 2021 whereby the truck



bearing registration No. RJ-52GA-3747, belonging to the petitioner was confiscated and direction for its auction were passed.

3. The petitioner has prayed for the following reliefs:-

- (i) *To issue an appropriate writ preferably in the nature of Certiorari for setting aside the order dated 26.08.2022 communicated through memo no.4432, dated 01.09.2022 passed by the mines Commissioner, mines and Geology Department Government of Bihar in Vehicle Confiscation Appeal No.01 of 2021 by which the petitioner had been directed to deposit sum of Ra 2,53,750/- by 02.09.2022 failing which the order of Collector Kaimur at Bhabua would be deemed to be upheld.*
- (ii) *To issue an appropriate writ Preferably in the nature of Certiorari for setting aside order dated 11.10.2021 passed by the Collector-Cum-District the Magistrate, Kaimur Bhabua in vehicle Confiscation (Mining) Case No.01 of 2021 by which the Truck of the petitioner bearing Registration No.RJ52GA-3747, Chesis, No. MAT447224F3K22848, Engine No. B51803251K63475147 has been Confiscated and the mines Development Officer, Kaimur has been directed to auction the said Truck of the petitioner.*
- (iii) *To issue an appropriate writ Preferably in the nature of mandamus Commanding up on the respondent authorities to forthwith release the Truck of the Petitioner bearing Registration No.RJ52GA-3747 in favour of the petitioner.*

4. The brief facts relevant for the present purpose is that the instant petitioner asserts himself to be the owner of the truck in question bearing registration No. RJ-52GA-3747 and the same was used in transportation of goods. It



is the case of the petitioner that when the aforesaid truck, loaded with sand, was enroute from Dehri-on-sone, the truck was caught and seized. Upon seizure, the Respondent no. 08 - District Mines Officer, Rohtas has imposed a fine of Rs. 46,000/- for illegal transportation of sand, which was deposited by the petitioner on 29.06.2021. Subsequently the Assistant Director, Mines and Geology, Rohtas vide his letter dated 29.09.2021 had ordered the Officer-in-Charge, Dehri (T) Police Station to release the truck in favour of the petitioner. The District Transport Officer, Rohtas has also imposed a fine of Rs. 40,500/- which too was deposited by the petitioner on 30.06.2021. The truck of the petitioner was released on 04.07.2021.

5. It is the further case of the petitioner, that in the night of 04.07.2021, the truck of the petitioner was released and the driver of the truck took the same from the Dehri (T) Police Station. On road, the aforesaid truck experienced some mechanical issues, therefore the driver of the truck went to seek a mechanic to fix the issue, when the driver returned, he learnt from the locals that the District Mines Officer, Kaimur had taken the said truck to Mohania Check-post. On the very same day, the petitioner and his driver went to the aforesaid check-



post and explained the situation, and were assured that the said vehicle would be released after verifying the veracity of the facts as stated by the petitioner. Subsequently, when on 13.07.2021 when the petitioner went to meet with the District Mines Officer, Kaimur, it is submitted that the petitioner was threatened that an F.I.R would be lodged against him. It is also submitted that the petitioner had filed a Miscellaneous Case No. 01 of 2021 for release of his vehicle.

6. The learned counsel has submitted that the vehicle of the petitioner was proceeding towards Kudra, Kaimur when it suddenly had a mechanical snag/breakdown, and while the same was parked at the flank of the road, the vehicle of the petitioner was arbitrarily and illegally seized by the respondent authorities.

7. It is categorically submitted by the learned counsel for the petitioner that the version that the Respondent no.05 - Mines Inspector, Kaimur, Bhabua, had seized the vehicle on 16.07.2021 at about 01:45 PM from G.T. Road, Muthani and the same was thereafter kept at Mohania yard pending further action is palpably false and concocted. The report of the respondent no.5 according to the petitioner ante-dated which is evident since the respondents do not have a valid seizure list



with the signature of the petitioner on it. Adverting to Rule 56(3) of the Bihar Minerals (Concession, Prevention of illegal mining Transportation and Storage) Rules, 2019, the learned counsel has submitted that it is incumbent upon the respondents to acknowledge the receipt of the articles seized and hand over the same to the neared police station or police out-post. It is also obligatory to send a report within 24 hours, However, the learned counsel has submitted that, none of these mandatory procedural necessities were followed by the respondents. It is emphasised that, neither the petitioner was served a receipt of the seized article nor the said seized article was handed over to the police station. Further, the concerned respondent authorities had not even sent the report to the District Collector. It is the submission of the learned counsel that owing to these flagrant violations at the hand of the respondent authorities, the alleged seizure is totally illegal and can not be sustained.

8. It is further submitted by the learned counsel for the petitioner that, based on the letter dated 21.08.2021, the Collector-cum-District Magistrate, Kaimur had registered Confiscation Case No. 01 of 2021, wherein the petitioner had duly appeared however without appreciating the factual matrix of the instant case the Collector-cum-District Magistrate,



Kaimur proceeded to pass the impugned order dated 11.10.2021 whereby the vehicle of the petitioner was confiscated and was directed to be auctioned. The operative portion of the aforesaid impugned orders reads thus :-

" वाहन मालिक दिनांक 16.07.2021 को समय लगभग 04.00 PM में कार्यालय आकर मुझसे खान निरीक्षक कैमूर मिले एवं वाहन खराब होने की बात बताई गयी। मेरे द्वारा वैध कागजात एवं दिनांक 04.07.2021 से 16.07.2021 तक वाहन खराब होने से संबंधित प्रमाण की मांग की गई तो उन्होंने कल.परसों में कागजात दिखाने की बात कहकर चले गये। पुनः दुबारा कागजात प्रस्तुत नहीं किए। वाहन पर लगभग 1000 सीएफएफटी बालू लदी थी जो बिहार खनिज समानुदान एवं वैध खनन परिवहन एवं भण्डारण निवारण नियमावली 2019 यथासंशोधित 2021 के नियम 58(1) के तहत वाहन जब्त किया गया एवं नियम 56(2) के तहत 2,53,750/- रुपये होती है। वाहन मालिक के द्वारा दण्ड की राशि जमा नहीं किया गया। तत्पश्चात् 30 दिन बीत तहत 2,53,750/- रुपये वाहन स्वामी द्वारा जमा नहीं किया गया। इन सभी तथ्यों के आधार पर वाहन स्वामी की मांग स्वीकार योग्य नहीं होने के कारण और नियम के प्रतिकूल कार्य वाहन से करते हुए पाये जाने के कारण वाहन निबंधन सं० RJ52GA-3747, CHASSIS No. MAT447224F3K22848, ENGINE No. 8591803251K63475147 (TRUCK) को सरकार के पक्ष में राज्यसात् किया जाता है।

खनिज विकास पदाधिकारी कैमूर को निदेशित किया जाता है कि जब्त वाहन को प्रक्रिया के तहत नीलामी करके नीलामी से प्राप्त राशि कोषागार कैमूर में चालान से जमा कर चालान की एक प्रति प्रस्तुत करेंगे। इस विनिश्चय के साथ वाद की कार्यवाही समाप्त की जाती है। आदेश से सभी संबंधित को अवगत करावे।

वाहन स्वामी आदेश से असंतुष्ट हों तो आदेश के 30 तीनों के भीतर खान आयुक्त बिहार पटना के समक्ष अपील दाखिल कर सकते हैं। "

9. Aggrieved by the afore-quoted impugned order, the petitioner had preferred a Confiscation Appeal before the Mines Commissioner, wherein vide order dated 26.08.2022,



one weeks' time was granted to the petitioner to deposit the amount. However, it is submitted by the learned counsel that the aforesaid order itself was communicated to the petitioner through Memo No. 4432 dated 01.09.2022.

10. The answering respondent nos 3 to 5 have filed a counter affidavit wherein it is submitted that the petitioner has attempted to mix and merge two separate seizures of the truck in question. It is submitted that the truck was first intercepted and seized on 16.04.2021 and was released after payment of penalty amount of Rs. 46,000/- by letter by the Assistant Director Mines, Rohtas at Sasaram, dated 29.06.2021. However, the truck of the petitioner was again seized on 16.07.2021 from G.T. Road, Muthani. Therefore, it is the submission on behalf of the answering respondents that the first seizure of the truck was done 16.04.2021 by the District Mines Officer, Rohtas and subsequently after release the second seizure was done on 16.07.2021 by the Mines Inspector, Kaimur at Bhabua and as such it is categorically submitted that the both the seizures are two different incidents which happened on two different dates, effected by two different Mining Officers. In this backdrop the learned counsel for the respondents has submitted that the petitioner has though paid and deposited the penalty



with respect to the first seizure and the episode of first seizure of the vehicle came to an end upon the release of the aforesaid vehicle after the petitioner deposited the penalty amount to the District Mining Office and the Transport Office. However, on the score of the second seizure which according to the respondents was done on 16.07.2021 from G.T. Road, Muthani, the petitioner has failed to deposit the compounding fee/penalty in accordance with Rule-56 of the Bihar Mineral (Concession, Prevention of illegal Mining Transportation and Storage) Amendment Rules 2021 which came into force from 05.07.2021. It is submitted that at the time of the second seizure, the vehicle of the petitioner was carrying about 100 CFT of sand without valid transportation challan and according to the amended provision of the aforesaid Rules which had provisioned for compounding fee, the demand notice of Rs. 2,53,750 was raised which has not been deposited by the petitioner.

11. Refuting the assertion that the seizure list was not handed to the petitioner at the time of the second seizure of the truck, the learned counsel for the respondents have submitted that there was no occasion for the seizure list to be handed since the vehicle in question was in an abandoned



state and no one was present in or around the vehicle.

12. In the counter affidavit the answering respondents have supported the impugned orders.

13. In response to the Counter Affidavit, the petitioner has preferred to file a rejoinder, wherein the petitioner has refuted the claim of the respondent authorities, that the truck in question was seized on 16.07.2021, moreover, adverting to Rule 56(3), it is reiterated by the petitioner that the mandatory acknowledgement of the seized article or its handing over to the nearest Police Station or for that matter sending of a report to the Collector within 24 hours of seizure were never complied with by the respondent authorities. The petitioner has also disputed the veracity of the register on whose strength it is asserted that the truck in question was seized on 16.07.2021, more so in absence of the aforementioned mandatory requirements under Rule 56(3). Lastly, it is submitted that no F.I.R has been registered by the respondents and the respondents have despite several directions through interim orders passed in the instant writ, have failed to bring on record the complete records, particularly the F.I.R or the seizure list of the truck.

14. Subsequently, by way of interim order dated 11.02.2025, a coordinate bench of this Court had directed the



respondents to bring on record the F.I.R/prosecution story. In compliance thereof the answering respondent nos. 3 to 5 had filed a Supplementary Counter Affidavit, wherein the facts of the case as elaborated in the earlier counter affidavit has been reiterated. Further a letter dated 16.07.2021 has been brought on record. Pertinently, no specific averment regarding the F.I.R or the prosecution story was brought on record. Therefore, again a coordinate bench of this Court *vide* interim order dated 06.05.2025 has directed to file a supplementary affidavit to that extent. In compliance thereof a second supplementary counter affidavit has been filed by the answering respondent nos. 3 to 5. In the aforesaid second supplementary counter affidavit it has been submitted that no F.I.R was lodged and relying upon Rule 56 of the Rules of 2019 the prosecution was initiated. The paragraph 5 to 7 of the aforesaid second supplementary counter affidavit reads as under -

“5. That it is relevant to state that this Hon'ble Court vide order dated 11.02.2025 has directed the respondent Mines Department to bring on record the FIR/prosecution story and however the supplementary counter affidavit has been filed in compliance of order dated 11.02.2025 wherein such specific statement with regard to the fact that no FIR was lodged in the present case was not stated, therefore, the Hon'ble Court vide order dated 06.05.2025 has directed the respondent Mines Department to file a supplementary affidavit to such extent. That the Hon'ble Court



while passing the order on 06.05.2025 has taken on record the submission of the respondent advocate that in the present case no FIR was lodged and relying upon the rule 56 of Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019 the prosecution was initiated. It was also submitted that the offence committed can be compounded before or after the institution of the prosecution on payment of cost of material and compounded fee as provided under rule 56 of Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019. It was also stated that the order of the Collector, Kaimur was further upheld in the Vehicle Confiscation Appeal Case No.01 of 2021 by the court of learned Commissioner, Mines Bihar vide order dated 26.11.2022 time has been granted to the petitioner to deposit the compounding fee/penalty amount, falling which, the order of the confiscation passed by the Collector, Kaimur at Bhabua shall be upheld.

6. *That as it has been clearly stated in the earlier affidavit that the petitioner is attempting and trying to mix the first and second seizure of the vehicle into one episode. The first seizure of the petitioner's vehicle was done on 16.04.2021 by the District Mining Office, Rohtas and the second seizure was done on 16.07.2021 by the Mines Inspector, Kaimur at Bhabua. This is to say that both the seizures are of two different incidents happened on two different dates by two different mining officials.*
7. **That in the instant case in which the petitioner's vehicle was seized on 16.07.2021 by the Mines Inspector, Kaimur at Bhabua no FIR was lodged."**

15. Considered the submissions of the parties and perused the materials available on record.

16. In compliance of the order dated 10.11.2025,



the District Mining Inspector, Kaimur has appeared and assisted this Court

17. From the record, it appears that the penalty of Rs. 2,53,750/- has been imposed upon the petitioner without issuing him any notice and the petitioner was straightaway issued notice to deposit an amount of Rs. 2,53,750/- after it was calculated by the Department. Thereafter, the vehicle of the petitioner was confiscated pursuant to the order dated 11.10.2021 passed by the District Magistrate, Kaimur at Bhabhua in Vehicle Confiscation (Mining) Case No. 01 of 2021. Thereafter, vide order dated 26.08.2022, the impugned order of confiscation has been affirmed by a non-speaking and cryptic order. The very basis of confiscation is the imposition of penalty without affording any opportunity of being heard.

18. It would be apposite to refer to Rule 56(7) of the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2021, which reads as under -

(7) Procedure for confiscation and auction of property seized under this rule. –

(i) Subject to sub-rule (2), where the Collector upon production before him of property seized or upon receipt of report about seizure, as the case may be, is satisfied that an offence has been committed in respect thereof, he may by order in writing and for reasons to be recorded confiscate the mineral so seized



together with all tools, arms, boats, vehicles, ropes, chains or any other article used in committing such offence. A copy of order on confiscation shall be forwarded without undue delay to the Mines Commissioner.

(ii) No order confiscating any property shall be made under sub-rule 7 (i) unless the Collector—

(a) issues a notice in writing to the person from whom the property is seized, and to any other person who may appear to the Collector to have some interest in such property;

(b) affords an opportunity to the persons referred to above, of making a representation within such reasonable time as may be specified in the notice against the proposed confiscation, and

(c) gives to the officer effecting the seizure and the person or persons to whom notice has been issued under clause (b), a hearing on date to be fixed for such purposes.

(iii) No order of confiscation under sub-rule (1) of any tools, arms, boats, vehicles, ropes, chains or any other article (other than the mineral seized shall be made if any person referred to in clause (b) of sub-rule 7(ii) proves to the satisfaction of the Collector that any such tools, arms, boats, ropes, chains or other articles were used without his knowledge or convenience or as the case may be, without the knowledge or convenience of his servant or agent and that all reasonable and necessary precautions had been taken against use of the objects aforesaid for commission of the offence.”



- (iv) All tools, arms, boats, vehicles, ropes, chains or other articles confiscated would be auctioned as per government rules.*
- (v) Order of confiscation not to interfere with other punishment. - The order of any confiscation under Rule shall not prevent imposition of any other punishment to which the person affected thereby is liable under these rules or any other law."*

19. From the bare perusal of the aforesaid rule, as amended in 2021, it is apparent that principles of natural justice has duly been recognized by the aforesaid Rules and as a result thereof, the respondent authorities can not be allowed to conveniently flout the prescription of the Rules and the principles of natural justice. The Respondent authorities ought to have issued a show-cause notice to the petitioner, before imposing the penalty. In these circumstances, the prayers deserves to be allowed.

20. The matter is remitted back to the Mining Officer, Kaimur at Bhabhua / concerned authority for fresh consideration after issuing proper show-cause notice and hearing the petitioner and thereafter passing a reasoned and speaking order in accordance with law.

21. In the meantime, considering the interest of justice, since no fruitful purpose will be served in keeping the vehicle of the petitioner seized and also considering the law laid



down by the Hon’ble Supreme Court in the case of ***Sunderbhai Ambalal Desai vs.State of Gujarat*** reported as ***2002 (10) SCC 283***, the vehicle of the petitioner be released in favour of the petitioner subject to the following conditions:

- (i) *The petitioner shall furnish a security of Rs 10 Lakhs (not in the form of Bank guarantee) to the satisfaction of the concerned authority before whom this matter is remitted back;*
- (ii) *The petitioner shall furnish all the necessary papers /documents of ownership before the concerned /competent authority;*
- (iii) *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 truck in question shall be produced as and when called upon or required in the proceeding or otherwise;*
- (iv) *The petitioner will also cooperate with the authorities till the final disposal of the proceeding. If the petitioner does not cooperate in the penalty proceeding, then ex parte order shall be passed by the authorities*

22. With the aforesaid observation and direction, this writ stands allowed.

(Sandeep Kumar, J)

vinita/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.12.2025
Transmission Date	NA

