

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9401 of 2023

=====

Gopal Singh @ Gopal Kumar Son of Chhabi Singh @ Chhabi Nath Singh
Resident of Village- Darigaon, P.S.- Darigaon, District- Rohtas.

... .. Petitioner/s

Versus

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

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Santosh Kumar, Advocate
For the Respondent/s : Mr.Anant Prasad Singh, S.C.-15

=====

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 04-02-2025

Heard Mr. Santosh Kumar, learned counsel for the petitioner and Mr.Anant Prasad Singh, learned S.C.-15 for the State.

2. The present writ application has been filed for issuance of writ in the nature of certiorari or any other appropriate writ, order or direction for quashing the order dated 12.05.2020 passed by the Revisional Authority-cum-Principal Secretary, Department of Forest (respondent No.1) whereby and whereunder the respondent No.1 has been pleased to confirm the order of the District Magistrate, Rohtas at Sasaram (respondent No.3) vide



order dated 25.07.2014 passed in Appeal No.05 of 2012 as well as order dated 17.09.2012 passed by the Authorized Officer-cum-Divisional Forest Officer, Rohtas, Forest Division, Sasaram (respondent No.4) in Confiscation Case No.25 of 2011 in most mechanical way adopting lax way approach without following the direction given by this Hon'ble Court vide order dated 18.11.21016 passed in CWJC No. 3121 of 2015, Gopal Singh @ Gopal Kumar Vs. The State of Bihar & Ors. (Annexure-1 of the writ application).

3. Learned counsel for the petitioner submits that the petitioner is owner of the Tractor, sent his Tractor from his village Darigaon to Dehri for bringing sand for his own use at his village but unfortunately the sand loading place was full of flowed due to which driver could not get sand and return back empty. In the way of returning back, the driver loaded some stone for its own purpose and he turned the tractor before Tarachandi towards north and went to stone mines in the area of village Basa and talked with a Munsif of mines holder lessee for purchase one tractor stone. After loading the tractor, the driver was to go to pay the cost of stone to Munsif of lessee and in the meantime, the Range Officer of the Forest Sasaram arrested the Driver without explaining any reason and Range Officer has lodged a prosecution case. A show cause



on behalf of the driver was also filed wherein he has categorically stated that he loaded stone for his own personal work and further stated that the owner of the tractor never has sent him for loading of stone chips. The matter was finally heard by respondent No.4 but he has been pleased to reject the same vide order dated 17.09.2012 (Annexure-2). Learned counsel for the petitioner submits that the petitioner has preferred a statutory confiscation appeal against the order of the respondent No.4 in Appeal No.5 of 2012 before the respondent No.3 who is Appellate Authority, Sasaram who has dismissed the appeal of the petitioner vide order dated 25.07.2014. Thereafter the petitioner has preferred a revision before the respondent No.1 in Revision Case No. 18 of 2014 but the same was also dismissed vide order dated 31.12.2014.

4. Learned counsel for the petitioner submits that the petitioner has assailed the aforesaid both orders in CWJC No. 3121 of 2015 and a Coordinate Bench of this Court, after hearing the parties, has been pleased to set aside the order dated 31.12.2014 passed by the Revisional Authority and remitted the back the case to the Revisional Authority to proceed afresh and for disposal of the revision petition in accordance with law. After remanding the matter back, the matter was again heard by the Revisional Authority and Revisional Authority without following



the guideline/order dated 31.12.2014 again dismissed the revision petition of the petitioner vide order dated 12.05.2020 and the same alongwith other orders are impugned in the present case. Learned counsel for the petitioner has drawn the attention with respect to Section 52(5) of Indian Forest Act, 1927, which reads as follows:

"52 (5) No order of confiscation under Sub-Section (3) of any tools, arm, boats, vehicles, ropes, chains or any other articles (other than the forest produce seized) shall be made if any, person referred to in clause (b) of Sub-section (4) proves to the satisfaction of authorized officer that any such tools, arms, vehicles, ropes, claims or other articles were used without his knowledge or connivance of his servant or agent and that all reasonable and necessary precautions had been taken against the use of the objects aforesaid for commission of the forest offence".

5. It appears from the order of the Revisional Authority that without assigning any reason and without following the guideline issued by the Hon'ble Court in CWJC No. 3121 of 2015 in most mechanical manner passed the order against the petitioner. Learned counsel for the petitioner has relied upon the judgment in



the case of **Smt.Renu Kumari Vs. The State of Bihar & Ors.**, reported in **2001 (1) PLJR 804** and the said judgment suggests that *“when there are no records or any inkling of materials regarding knowledge of the owner of the vehicle regarding the offence, then definitely the confiscation is bad and the District Magistrate had rightly decided the matter in its proper perspective”*. Learned counsel for the petitioner has also relied upon the judgment dated **19.04.2019** passed in **CWJC No.12776 of 2016 (Brij Kishore Singh @ Braj Kishore Singh Vs. The State of Bihar & Ors)**, paragraph-9 of the said judgment which is being quoted hereinbelow:

“9.This Court has perused the order of the Authorised Officer-cum-Divisional Forest Officer, Rohtas at Sasaram as contained in Annexure-2 as well as the statement of witnesses examined on behalf of the petitioner and state. During proceeding, all the witnesses examined on behalf of the petitioner have stated that vehicle of the petitioner was standing in front of house of the petitioner. It has wrongly been seized because the house of petitioner is situated at a distance of 1 Km. from the protected forest area.”



6. In the present case, the driver of the vehicle in question has stated before the authority concerned that he has loaded some stone for his own purpose and petitioner has no role at all for loading the stone in the vehicle in question and without considering the aforesaid facts, the Confiscating Officer has ordered for confiscation of the vehicle of the petitioner. The aforesaid order was also confirmed by the Appellate Authority in a very mechanical manner and the Revisional Authority also affirmed the order of the Appellate Authority without considering the order dated 18.11.2016 passed in CWJC No.3121 of 2015.

7. Having heard learned counsel for the parties and perused the material available on the record, it appears that the authority, without taking the consideration the statement of the driver, has passed the aforesaid orders. Therefore, the order dated 12.05.2020 as contained in Annexure-5, order dated 25.07.2014 as contained in Annexure-3 and order dated 17.09.2012 as contained in Annexure-2 of the writ application suffer from illegality and are hereby set aside.

8. The Authorized Officer-cum-Divisional Forest Officer, Rohtas at Sasaram is hereby directed to release the vehicle of the petitioner, if not earlier released, within a period of fifteen days from the date of receipt/production of a copy of this order on



production of valid paper in support of the owner of the vehicle in question.

9. Accordingly, this writ application stands allowed.

(Rajesh Kumar Verma, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.03.2025
Transmission Date	NA

