

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10952 of 2025

1. Kasim Ali, Son of Sabir Hussain @ Savir Hussain Resident of Village-Brindavan, P.S.- Uchkagaon, District- Gopalganj, Bihar.
2. Ayub Ali, Son of Sabir Hussain @ Savir Hussain Resident of Village-Brindavan, P.S.- Uchkagaon, District- Gopalganj, Bihar.

... .. Petitioners

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna, Bihar.
2. The Secretary-cum-Mines Commissioner, Patna, Bihar.
3. The Director, Mines, Patna, Bihar.
4. The District Magistrate-Cum- Collector, Gopalganj, Bihar.
5. The District Mining Officer, Gopalganj, Bihar.
6. The Mineral Development Officer, Gopalganj, Bihar.
7. The Officer-in-Charge, Gopalganj Town Police Station, Gopalganj, Bihar.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Prashant Kumar, Advocate
For the State	:	S.C.-13
For the Mines Department:		Mr. Naresh Dikshit, Advocate
		Mr. Brij Bihari Tiwary, Advocate
		Ms. Shruti Sinha, Advocate

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

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

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

- i. *For issuance of an appropriate writ, order or direction in the nature of*



Mandamus directing the Respondent authorities to release the vehicle i.e. Tata Diesel Truck bearing Registration No. BR28G5708 in favour of the petitioner no.2 which was arbitrarily seized and intimated vide Letter No.217/M dated 24.04.2025 issued by the Respondent No.6 for the alleged violation of Rule 56 of the Bihar Mineral Rules, 2019 (amended in 2024).

ii. For issuance of an appropriate writ, order or direction for quashing the proceeding initiated against the petitioner no.2 vide Letter No.217/M dated 24.04.2025 issued by the Respondent No.5 for the alleged violation of Rule 56 of the Bihar Mineral Rules, 2019 (amended in 2024)”

3. It is the contention of learned counsel for the petitioners that before issuing the impugned letter no.217 dated 24.04.2025, by which the penalty of Rs.8,48,884/- has been imposed upon them, no notice has been served to the petitioners nor they were heard by the respondent authorities.

4. Learned counsel for the Mining Department has submitted that it is the standard procedure that after seizure of the vehicles by the Mining Department appropriate penalty is calculated and imposed upon the vehicle owner.

5. From the arguments of learned counsel for



the parties and on perusal of the record, it appears that the petitioners were neither issued notice nor were heard before imposing the aforesaid penalty, which violates the principles of nature justice.

6. The doctrine of *audi alteram partem* has three basic essentials. Firstly, a person against whom an order is required to be passed or whose rights are likely to be affected adversely, must be granted an opportunity of being heard. Secondly, the authority concerned should provide a fair and transparent procedure and lastly, the authority concerned must apply its mind and dispose of the matter by a reasoned or speaking order.

7. Considering the aforesaid facts and also the law laid down by the Hon'ble Supreme Court in the case of *S.N. Mukherjee vs. Union of India* reported as (1990) 4 SCC 594 and in the case of *Kranti Associates (P) Limited vs. Masood Ahmed Khan* reported as (2010) 9 SCC 496, the penalty imposed upon the petitioners without issuing show-cause notice and not affording them an opportunity of hearing cannot be sustained.

8. Accordingly, the impugned letter no.217/M dated 24.04.2025 issued by the respondent-Mineral



Development Officer, Gopalganj is hereby set aside. The matter is remitted to the respondent-Mineral Development Officer, Gopalganj for fresh consideration in accordance with law. All consequential actions taken pursuant to the impugned letter dated 24.04.2025 shall not come into effect.

9. Considering the fact that no fruitful purpose will be served in keeping the vehicle of the petitioner seized 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/ truck of the petitioners bearing registration No. BR28G5708 be released in favour of the petitioner no.2, subject to the following conditions:-

- i. *The petitioner no.2 shall furnish a security of Rs.8,50,000/- before the concerned/competent authority before whom the confiscation proceeding is pending.*
- ii. *The petitioner no.2 shall furnish all the necessary papers / documents of ownership before the concerned / competent authority.*
- iii. *The petitioner no.2 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 confiscation proceeding and that the vehicle / truck in question shall be produced as and when called upon or required in the proceeding or otherwise.

iv. If any jurisdictional objection is taken by the petitioner no.2, that shall also be considered by the authority concerned. The petitioners will also cooperate with the authorities till the final disposal of the proceeding.

10. With the aforesaid observations and directions, this writ petition is allowed.

(Sandeep Kumar, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	14.11.2025
Transmission Date	

