

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11832 of 2025

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Raju Kumar S/o Meghnath Ray, R/o-Narayanpur, P.S.-Daulatpur, District-Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary, Transport Department, Government of Bihar, Patna.
2. The Bihar State Transport Commissioner, Transport Department, Government of Bihar, Patna.
3. The District Transport Officer, Patna.
4. The Secretary cum Mines Commissioner, Mines and Geology Department, Government of Bihar, Patna.
5. The Mining Development Officer, Patna.
6. The Station House Officer, Bihta Police Station, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Wasi Mohammad, Advocate
For the State	:	Mr. Birju Prasad, GP (13)
		Mr. Ravi Kumar, AC to GP 13
		Mr. Akshay Lal Prasad, AC to GP 13
For the Mines	:	Mr. Naresh Dikshit, Spl. PP

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT
Date : 04-11-2025

Ref:- I.A. No. 01 of 2025

This Interlocutory Application has been filed for amending the relief sought in paragraph no.1 of the writ application by adding the following reliefs:

“v) To issue an appropriate writ, order or direction in the nature of certiorari for quashing the letter no.1962/M, Patna dated 10.09.2025 issued under the signature of Mining Development Officer, Patna (Respondent No.5), whereby and



whereunder the Respondent No.5 has asked the petitioner to deposit Rs.1,11,688/- (Rupees One Lac Eleven Thousand Six Hundred Eighty-Eight) as penalty and value of the mineral.

vi) To issue an appropriate writ, order, or direction in the nature of mandamus for provisional release of the tractor of the petitioner along with its trailer loaded with sand, during pendency of the writ application.”

2. For the reasons mentioned in the interlocutory application, ***I.A. No. 01 of 2025 stands allowed.*** The prayer sought by filing this interlocutory application shall be treated to be a part of the main writ petition.

Ref:- C.W.J.C. No. 11832 of 2025

Heard the learned counsel for the petitioner, the learned counsel for the State and the learned Spl.P.P. for the Mines Department.

2. The writ petition has been filed seeking the following relief(s):

i) To issue an appropriate writ, order or direction in the nature of mandamus commanding the concerned Respondent to release the Tractor of the Petitioner bearing Registration No. BR03GA9536, which has been illegally and unauthorized seized by



the Respondent No.6, on 02.06.2025, on the false allegation of being overloaded with sand;

- ii) To issue an appropriate writ, order or direction in the nature of mandamus directing the Respondents to make good the loss and provide adequate compensation for the losses suffered by the petitioner on account of illegal seizure of the aforesaid Tractor of the Petitioner;*
- iii) To issue an order or direction to the Respondents to pay the cost of litigation incurred in filing of the present writ application to the Petitioner;*
- iv) To grant any other relief or reliefs which the Petitioner may be found entitled to, in the facts and circumstances of the case;*
- v) To issue an appropriate writ, order or direction in the nature of certiorari for quashing the letter no.1962/M, Patna dated 10.09.2025 issued under the signature of Mining Development Officer, Patna (Respondent No.5), whereby and whereunder the Respondent No.5 has asked the petitioner to deposit Rs.1,11,688/- (Rupees One Lac Eleven Thousand Six Hundred Eighty-Eight) as penalty and value of the mineral;*



vi) To issue an appropriate writ, order, or direction in the nature of mandamus for provisional release of the tractor of the petitioner along with its trailer loaded with sand, during pendency of the writ application.

3. The brief facts of the case are that the petitioner is the lawful owner of Tractor bearing Registration No. BR03GA9536 and his livelihood is dependent upon the income he earns from the Tractor. On 02.06.2025, the aforesaid Tractor of the petitioner was carrying sand, of which he had requisite challan bearing No. 251001250602102441683 and as per the said challan, permission was to carry 100 Cft of sand weighing 4 Mt and the aforesaid Tractor was carrying sand within the permissible limit as given in the aforesaid Challan. During transit near Bihta, the Tractor was stopped by the police and upon asking the driver, he showed the relevant documents. However, without any rhyme or reason, the police seized the tractor of the petitioner on the false accusation of being overloaded, without verifying the weight and quantity of the sand. Further, no seizure memo was given to the driver after seizing the tractor. Upon asking, the driver was told to visit the police station by the police personnel who had seized the Tractor. Thereafter, the petitioner visited the Bihta Police Station



where he was informed that his tractor was found to be overloaded with sand and thus the police seized the Tractor of the petitioner and the Respondent No. 6 has written a letter bearing Memo No.2408/2025 dated 03.06.2025 to Respondent Nos. 3 and 5 requesting them to take action for imposing penalty for the Tractor of the petitioner being overloaded with sand. The petitioner then visited the office of Respondent Nos.3 and 5 several times for enquiring about his Tractor and getting his tractor released but he was not told anything. It is relevant to state here that the authorities had also refused to accept his representation for the same. The petitioner was made to run from pillar to post but the authorities gave no satisfactory reply. At last, the petitioner sent a representation to Respondent Nos. 3 and 5 by Speed Post on 20.06.2025. The Petitioner has not received any notice for initiation of any proceeding for seizing of the said Tractor or any seizure memo with regard to the seizure of the aforesaid Tractor. The aforesaid Tractor of the petitioner has been parked by the Respondent State Authorities in open which is causing decay of the property of the petitioner and the petitioner is hand to mouth as his source of livelihood has been taken away by the Respondent State Authorities in an arbitrary and whimsical manner without following due



procedure of law.

4. The case was heard on 09.10.2025 and the State was directed to file a parawise counter affidavit. Thereafter, one Interlocutory Application vide I.A. No. 01 of 2024 has been filed by the petitioner for amendment in the prayer portion of the main writ petition which has been allowed.

5. The learned counsel for the petitioner has submitted that on 13.10.2025, the petitioner was communicated by the officials of the Mining Department telephonically and through *Whatsapp* that a letter bearing No.1962/M, Patna dated 10.09.2025 issued under the signature of Mining Development Officer, Patna (Respondent No.5) has been issued by which the Respondent No.5 has asked the petitioner to deposit Rs.1,11,688/-(Rupees One Lac Eleven Thousand Six Hundred Eighty-Eight) as penalty and value of the mineral. He further submits that although, the aforementioned Letter No.1962/M is purported to have been issued on 10.09.2025 but the same was never communicated, let alone served, to the petitioner anytime earlier before 13.10.2025 through any means. In the aforesaid letter, it is mentioned that as per the inspection, the quantity of the sand was found to be 110 cubic feet and the same has been found to be overloaded. However, the petitioner states that the



same is erroneous and the quantity of sand loaded was well within the prescribed limit mentioned in the Challan.

6. The learned counsel for the petitioner has further submitted that the inspection has been done months after the tractor was seized and for such a long time, the said tractor was not in the custody of the petitioner, rather the same was in custody of the Respondents. Therefore, assuming and not admitting that the tractor is overloaded, the petitioner, after such a long passage of time cannot be held liable at this stage. He further submits that from perusal of Annexure-P/3 it is evident that the driver of the tractor was compliant and was co-operating by furnishing the documents including the *Challan* and did not run away from the place. However, the authorities chosen not to get the tractor weighed and the mineral measured which shows that the authorities had mala fide intention. He further submits that even after the seizure on 02.06.2025, the petitioner or his driver was never served with any seizure memo and till date they have not been served with any memo related to the seizure of the tractor and the entire action of the seizure of the tractor of the petitioner has been done in the most arbitrary manner.

7. The learned counsel for the petitioner has relied upon a judgment of this Court passed in the case of ***Dhiraj***



Kumar v/s State of Bihar & Ors passed in ***Cr.W.J.C. No. 1579 of 2022.***

8. Per-contra, the learned counsel for the Mines and Geology Department (hereinafter referred as Department) has submitted that a parawise counter affidavit has been filed.

9. In the counter affidavit, the Department has basically reiterated the facts of the case including the measurement which as per them has been held on 07.08.2025.

10. Considered the submissions of the parties and perused the materials on record. From the facts of the case, it appears that while transporting sand, the petitioner's vehicle was seized by the Bihta Police on 02.06.2025. The trailer was not taken to any weighing bridge at the time of seizure. The seizure was done on 02.06.2025 and the measurement has been done on 07.08.2025. A co-ordinate Bench of this Court in ***Dhiraj Kumar (Supra)*** has held the provisions for Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019 (hereinafter referred to as the 'Rules of 2019'), the power being drastic in nature must be exercised with due circumspection and care and it should be exercised only in the manner provided by the Rules of 2019. Learned counsel submits that Rule 59 confers power upon certain class of officers



mentioned therein to enter, inspect, search and seize any minor mineral, material, conveyance etc. but according to sub-rule (2) of Rule 59, the search and seizure is to be carried out in accordance with the provisions of Section 100 of the Code of Criminal Procedure, 1973.

11. Rule 59 and 60 of the Rules of 2019 read thus:

59. Power to enter, inspect, search and seize.

—(1) *For the purpose of ascertaining the position of the working, actual or prospective of any mine or abandoned mine or for any other purpose connected with these rules, any of the following Officers namely:*

(a) The Mines Commissioner, the Director Mines; or

(b) The Collector or any other officer authorised by the Collector

(c) Additional Director, Deputy Director, Assistant Director, Mineral Development Officer and Mining Inspectors; may,

(i) enter and inspect any mine;

(ii) survey and take measurements in any such mine;

(iii) weigh, measure or take measurements of the stocks of mineral lying at any mine;

(iv) examine any document, book, register or record in the possession or power of any person having the control of, or connected with, any mine and place, marks of identification thereon and take extracts from or make copies of such document, book, register or record;

(v) order the production of any such document, book register as is referred in clause (iv);

(vi) examine any person having the control of or connected with any mine;

(vii) seize any document, sample, equipment, conveyance, animal,



commodity, minor mineral, material, raw material or any other item of concern.

(2) In case of such search and seizure, provisions of Section 100, of the Code of Criminal Procedure 1973 shall apply.

60. Power to stop and check any carrier, transport or vessel.—

(1) Any of the Officers mentioned in Rule 59 may stop any carrier, vehicle or vessel carrying minor minerals, to check for verification of the contents.

(2) In case such Officer prima facie finds that the load of the carrier, vehicle or vessel, is more than the permitted quantity and / or challan, he may require the driver of the carrier, vehicle, vessel, to take such carrier, vehicle, vessel to the nearest weighbridge and get the contents weighed at the expense of the driver or the owner of such vehicle/carrier/ vessel.

(3) If any person who refuses to obey the lawful command of such Mining Officer shall be prosecuted under these Rules.

12. In the case of ***Chandra Kishore Jha v.Mahavir Prasad & Ors.*** Reported as ***(1999) 8 SCC 266***, the Hon'ble Supreme Court has held that if a statute provides something to be done in a particular manner, that thing should be in that manner alone otherwise not at all.

13. From the rules and facts of the case it appears that the seizure of the petitioner's vehicle is in complete violation of the rules and when this Court directed the respondent authorities to file a parawise counter affidavit then



they have come up with the measurement saying that the extra sand of 10 cubic feet was loaded on the vehicle in question. The delay in the measurement of the sand casts a doubt over the intention of the police as well as the Mining Authorities. They should have acted in accordance with law i.e., just after the seizure of the vehicle in question, Mining Authorities should have taken the vehicle on weighing bridge for appropriate measurement and if the same could have been found overloaded, further action could have been taken by them but after seizing the tractor and trailer in question, the authorities did not take any action in accordance with law for measurement and it appears that the measurement by the Mining Authorities after such a long gap is also doubtful because they have only found 10 cubic feet of extra sand.

14. In my opinion, the search and seizure has been in violation of the Rules i.e., Rule 59 and 60 of the Rules of 2019. Even if the contention of the State is accepted the overloading comes to be only 10 cubic feet.

15. The action of the then S.H.O., Bihta Police Station and the District Mining Officer is illegal and deprecated. The SHO by his naked eye could not have found that the trailer was overloaded with sand and had seized the tractor and trailer



and kept the vehicle in the police station. Before effecting seizure, the trailer ought to have been weight at weighing bridge which has not been done. From the action of the SHO, it appears to be a *mala-fide* action against the petitioner which has resulted in huge business loss to the petitioner. Similarly, the Respondent No. 5 kept sitting over the matter and acted after three months of the seizure.

16. In view of the discussions made above, I am of the view that the subsequent seizure by the Mines Authorities is also illegal as they have not followed the law.

17. Considering the aforesaid, this writ petition stands allowed. Accordingly, the letter no.1962/M, Patna dated 10.09.2025 issued under the signature of Mining Development Officer, Patna (Respondent No.5), by which the Respondent No.5 has asked the petitioner to deposit Rs.1,11,688/- (Rupees One Lac Eleven Thousand Six Hundred Eighty-Eight) as penalty and value of the mineral is hereby quashed.

18. The Respondents are directed to release the seized vehicle of the petitioner forthwith.

19. The petitioner is given liberty to file appropriate petition against the S.H.O., Bihta Police Station and the Mining Department seeking compensation before an



appropriate authority.

20. Let a copy of this order be sent to the D.G.P., Bihar and the Secretary-cum-Mines Commissioner, Mines and Geology Department for initiating appropriate action against the then S.H.O., Bihta Police Station and the Mining Development Officer, Patna, who had illegal seized the tractor & trailer of the petitioner without properly measuring the sand laden on the trailer.

21. The D.G.P., Bihar and the Secretary-cum-Commissioner, Mines and Geology Department will inform this Court about the action taken against the then S.H.O., Bihta Police Station and District Mining Officer, Patna within six weeks from the date of receipt/communication of a copy of this order.

Shishir/-

(Sandeep Kumar, J)

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	11 .11.2025
Transmission Date	N/A

