

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 14259 of 2024

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Dharmendra Kumar Son of Surendra Singh @ Surendra Kumar Singh,
Resident of Village- Muzaffarpur, P.S.- Sahar (Mahpur), District- Bhojpur at
Ara.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Environment and Forest Department, Govt. of Bihar, Patna.
2. The Principal Secretary-cum-Revisional Authority, Environment and Forest Department, Govt. of Bihar, Patna.
3. The District Magistrate-cum-Appellate Authority, Rohtas at Sasaram.
4. The Divisional Forest Officer-cum-Confiscating Authority, Rohtas.
5. The Range Officer, Darigaon, Rohtas.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Babu Nandan Prasad, Advocate
For the Respondent/s	:	Mr. Narendra Kumar Singh, AC to GP-22

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
CAV JUDGMENT

Date : 29-05-2025

Heard Mr. Babu Nandad Prasad, learned counsel for the
petitioner and Mr. Narednra Kumar Singh, learned AC to GP-22
for the State.

2. The present writ petition has been filed for
following reliefs:

*I). To issue writ/ writs, order/orders,
direction/directions including a writ in
the nature of certiorari for quashing the
order dated 30.05.2023 passed in
Forest Revision Case no. 05/2021 by
the Principal Secretary-cum-Revisional*

Authority, Patna (Respondent no. 2) whereby and whereunder he has been dismissed the Revision Petition in routine manner (as contained in Annexure-P/6). Further to quash the order dated 11.02.2020 passed in Forest Appeal Case no. 74/2017 by the District Magistrate-cum-Appellate Authority, Rohtas (Sasaram) he has been refused to release finally the vehicle bearing Registration No. BR-01GA-5237 Truck (10 Wheels) in favour of the petitioner and also affirmed the order dated 28.06.2017 passed by the Divisional Forest Officer, Rohtas (as contained in Annexure-P/4) without looking the facts and circumstances of the case of the petitioner. It is further quashed the order dated 28.06.2017 passed in Forest Confiscation Case no. 25/17(D) arising out of Forest Case no. 125/16 by the Divisional Forest Officer-cum-Confiscating Authority, Rohtas at Sasaram without considering the facts and circumstances of the case of the petitioner in proper perspectives.

II). To issue a writ/ writs, order/ orders, direction/directions including a writ in the nature of mandamus

directing the Respondents to release finally the vehicle Truck bearing Registration No. BR-01GA-5237 in his favour forthwith.

III). For granting any other relief or reliefs for which the petitioner may be found entitle in the facts and circumstances of the case.

3. Learned counsel for the petitioner submits that in fact, the Range Officer, Sasaram, Rohtas, when he was on patrolling duty on 13.11.2016, he seized several trucks including the truck of the petitioner loaded with 600 cft. Stone chips, thereafter, the confiscation proceeding was initiated against the truck of the petitioner bearing registration no. BR-01GA/5237 along with loaded stone chips. He further submits that the allegation levelled against the petitioner is completely false, baseless and misleading and the petitioner has not committed any offence. The truck of the petitioner was loaded with stone chips thereon from the business premises of M/s Prakash Stone Works, Billi, Markundi, Gitti/Bolder, Sonbhadra, Uttar Pradesh on 11.11.2016 along with sale invoice and on strength of which the consignment of stone chips was being carried from Uttar Pradesh to Arwal, Naubatput, Bihar and despite of the valid challan, the authority did not take any notice of the said challan as well as road

permit of the State of Bihar and they insisted the driver to oblige him but since the driver failed to do so, the truck of the petitioner was seized by the authority concerned. The Seizing Officer has not been examined to prove forest offence and non-examination is fatal for prosecution as well as there is nothing to show in the impugned order that how forest offence under Sections 33, 41 and 42 of the Forest Act have been contravened. It appears that in spite of this on the basis of report of the Range Officer, the Forest Case No. 125 of 2016 dated 16.11.2016 was initiated by the District Magistrate-cum-Appellate Authority, Rohtas (respondent no. 3), who confiscated the truck in question vide order dated 28.06.2017 passed in Forest Confiscation Case No. 25/17 (D) arising out of Forest Case No. 125 of 2016 without considering the facts and circumstances of the case of the petitioner in proper perspective. The petitioner aggrieved by the aforesaid order has filed an appeal before the District Magistrate-cum-Appellate Authority, Rohtas (respondent no. 3) vide Forest Confiscation Appeal No. 74 of 2017 under Section 52 (A) of the Indian Forest Act, 1927. The respondent no. 3 heard the appeal of the petitioner on 11.02.2020 and reserved the order, thereafter, the order was passed and the said authority affirmed the order of the respondent, District Forest Officer, Rohtas in Forest Confiscation No. 74 of 2017. He further submits that in fact, the truck in question was released

provisionally vide order dated 26.10.2018 passed in C.W.J.C. No. 10467 of 2018 in Cr. W.J.C. No. 998 of 2018 (Annexure-5). The petitioner preferred a Forest Revision Case No. 5 of 2021 against the forest appeal before the Revisional Authority and by raising all the points in which he proved his innocence. The Principal Secretary-cum-Revisional Authority, Environment and Forest Department, Government of Bihar, Patna (respondent no. 2) passed an order dated 30.05.2023 in Forest Revision Case No. 5 of 2021 and he has been pleased to reject the forest revision petition in routine manner without appreciating the facts and laws involved in it. From perusal of the impugned orders dated 28.06.2017, 11.02.2020 and 30.05.2023 passed by the respondents, it transpires that they have failed to consider the case of the petitioner as well as facts and circumstances of the case of the petitioner in proper perspective.

4. Learned counsel for the petitioner submits that Section 30 of the Forest Act applies only when stone chips are brought from forest protected area in contravention to the Section 30 of the Act but in the present case the vehicle truck was seized from GT Road, Karwandiya which is out of forest protected area, so no case is made out under Sections 33, 41 and 42 of the Forest Act. He further submits that Mauza must be notified under Section 30 of the Forest Act only remain in force up to period of 30 years

from its publication as per Sections 30(b) and 30(c) of the Act, whereas the Fazilpur Mauza is said to be notified order dated 02.02.1969 vide Notification No. 595-A/F-ASQ/59. He further submits that in view of the aforesaid, it appears that the respondent authority has passed the aforesaid orders in violation of the provisions of the Forest Act and apart from that the area from which the recovery was made does not come under the forest area, so no case is made out under the Forest Act against the petitioner.

5. Learned counsel for the State filed a detailed a counter affidavit stating therein that the aforesaid orders have been passed by the authority concerned in accordance with the law after due consideration of the submission of the petitioner. As per the prescribed provision of the Section 2(4) (b) (iv) of the Indian Forest (Bihar Amendment 1990) Act, all products mining/quarrying carried on inside any protected forest is a “forest produce”, so stone chips/stone metals/stone boulders/stone dust/stone pattias and other products converted from illegally qarried stone boulders from inside a notified protected forest is a “forest produce”. The Fazilpur forest area under jurisdiction of the Rohtas Forest Division, Sasaram has been notified as the “protected forest”, as per the prescribed provisions of the Indian Forest Act, 1927 vide Notification dated 21.02.1969 and there is no valid stone mining lease approved or operational in any of the

“protected forest” in the Rohtas Forest Division. The vehicle of the petitioner has violated the rules of the Forest Act and the authorized Officers-cum-Divisional Forest Officers, Sasaram as per the prescribed provisions of the Section 52(3) of the Indian Forest Act, 1927 upon intimation that the seized vehicle of the petitioner was involved in the commission of the forest offence, bearing Case No. 125 of 2016 initiated confiscation proceeding bearing Confiscation Case No. 25/17 (B). As per Section 52 (4) (a) of the Act, 1927, the learned Court of the Chief Judicial Magistrate, Sasaram, Rohtas was intimated about the initiation of the confiscation proceeding against the seized said vehicles of the petitioner by the Court of the authorized Officers-cum-Divisional Forest Officers, Rohtas on 07.02.2017. As per Section 52 (4) (b) and (c) of Act 1927, a Notice No. 542 dated 07.02.2017 was issued to the petitioner by the Court of the prescribed authorized Officers-cum-Divisional Forest Officer, Rohtas, Sasaram directing the petitioner to submit reply to the said show cause notice as to why the vehicle seized in the respective cases should not be confiscated and accordingly the petitioner had filed a reply before the Divisional Forest Officer on 09.02.2017, the petitioner, drivers and other persons have been given enough opportunity to file reply to the show cause notice and to prove otherwise before the Court of authorized Officers-cum-Divisional Forest Officer on several

dated i.e. 25.02.2017, 28.02.2017, 08.05.2017, 11.05.2017 and 17.05.2017. The petitioner appeared himself on 11.05.2017 where statements of the witnesses were recorded and on the rest of the dates, the petitioner failed to produced any of the witnesses not even the driver of the said vehicles. The authorized Officers-cum-Divisional Forest Officers in the Confiscation Case No. 25 of 2017 (D) to prove that the petitioner had taken all the necessary and reasonable precaution against the misuse of the said vehicle from committing the said forest offence in violation of Sections 33, 41 and 42 of the Indian Forest Act which is cognizable, non-bailable and non-compoundable serious forest offences and apart from that the petitioner has failed to produce any substantial evidence which could prove that the vehicle was not involved in illegal transportation of the forest product. As per the prescribed provisions of Section 52 (5) of the Act, 1927, the owner and the driver/agent of the seized vehicle has to prove that the vehicle was used without the connivance and the knowledge of them and it has to be proved that both owners of the seized vehicle and the driver/agent have taken all reasonable and necessary precautions against the misuse of the vehicle in the commission of the any forest offence. He further submits that it is pertinent to mention the Fazilpur Forest Area under the jurisdiction of the Rohtas Forest Division, Sasaram has been notified as a “Protected Forests” as per

the prescribed provisions of the Indian Forest Act, 1927 vide Government of Bihar's Notification No. 595-A/F-AQ-5/69 dated 21.02.1969. It is relevant to mention here that there is no valid stone mining lease approved or operational in any of the "Protected Forest" in the Rohtas Forest Division. Under Section 30 (b) of the Indian Forest Act, 1927, declares portion of the forest to be close for such tempts, not exceeding 30 years, but Section 30 (c) of the Act does not restrict prohibition only to 30 years. It means that notification under Section 30(c) is still valid for the protected area notified by the State Government.

6. Having heard the learned counsels for the parties and perused the material available on record, this Court, therefore, holds that the truck of the petitioner was loaded with 600 cft. stone chips thereon from the business premises of M/s Prakash Stone Works, Billi, Markundi, Gitti/Bolder, Sonbhadra, Uttar Pradesh on 11.11.2016 along with sale invoice and on the strength of which the consignment of stone chips was being carried from Uttar Pradesh to Arwal, Naubatput, Bihar and despite of the valid challan, the authority did not take any notice of the sale challan as well as road permit of the State of Bihar and the truck of the petitioner was wrongly confiscated by the authority concerned and despite of showing the aforesaid documents before the authority concerned. Section 30 of the Forest Act applies only when stone

chips are brought from forest protected area in contravention to Section 30 of the Act but in the present case the truck was seized from G.T. Road, Karwandiya which is out of Forest Protected Area, so no case is made out under the Forest Act. The authority concerned have wrongly confiscated the truck of the petitioner, the orders dated 28.06.2017 (Annexure-P/3), 11.02.2020 (Annexure-P/4) and 30.05.2023 (Annexure-P/6) are set aside and the truck in question bearing registration no. BR-01GA/5237 which was released vide order dated 26.10.2018 in C.W.J.C. No. 10467 of 2018 in Cr.W.J.C. No. 998 of 2018 (Annexure-5).

7. The writ petition is allowed and the petitioner is free from all the undertakings as given pursuant to the direction of this Court vide order dated 26.10.2018 passed in C.W.J.C. No. 10467 of 2018 in Cr.W.J.C. No. 998 of 2018 with respect to truck in question.

(Rajesh Kumar Verma, J)

Jyoti Kumari/-

AFR/NAFR	NAFR
CAV DATE	25.03.2025
Uploading Date	.06.2025
Transmission Date	NA