

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15918 of 2015

Niraj Hans S/o Rajendra Sharma Resident of Village - Pali, P.S. - Belaganj,
District – Gaya.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate cum Collector, Gaya.
3. The Assistant Director, Mining, Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sunil Pathak
For the Respondent/s	:	Mr. Devendra Kr Sinha
For the Mines	:	Mr. Naresh Dikshit, Adv.
For the State	:	Mr. Sarvesh Kr. Singh, AAG-13
	:	Mr. Abhinav Alok, AC to AAG-13

CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

Date : 18-02-2025

1. The Writ petition is filed for issuance of Writ of Mandamus and Certiorari holding that proceedings dated 14.08.2015 to 17.08.2015 by the respondent No. 3 against the petitioner and his goods carrier truck to be mala-fide without



jurisdiction and further for a direction upon the respondent to refund the penalty amount Rs. 45,000/- to the petitioner and allow compensation for illegal seizure of truck for four days i.e. Rs. 45,000/ in addition.

2. The brief facts culled out of the Writ petition is that the petitioner's truck was carrying stone chips under valid challan, which was dispatched from Hunterganj, Chatra, Jharkhand on 12.08.2015, at about 02:00 P.M. and was to be unloaded at Chakand, Gaya on 13.08.2015 in evening. The truck driver faced no entry at Hunterganj as well as Gaya Town, in day time on 12th and 13th August due to which the driver of the truck got a little bit late. Further the driver faced traffic jam and no entry and got late while passing through Rampur Police Station area, for Chakand, Gaya while he was stopped by respondent No. 3 in aid of local police. The driver produced valid challan and all relevant documents, but still his truck was detained in arbitrary manner and was stationed at Rampur Police Station, in the night of 13th/ 14th August, 2015



without giving any reason. The respondent No. 3 directed the petitioner to bring a demand draft of Rs. 45,000/- as a penalty, which was paid by him. The petitioner faced heavy loss in order to get his truck released. The release order dated 17.08.2015 vide Letter No. 1720 was issued by respondent No. 3 do not disclose that as to why the vehicle was seized on 14.08.2015.

3. The contents of the Writ petition further disclose that neither any seizure memo was handed nor any reason was shown as to why fine was awarded against him and therefore, prayed to refund of the amount as well as for the compensation for detaining his truck.

4. A detailed counter affidavit was filed by the respondent Nos. 1 and 2. The contents of the counter affidavit disclose that the petitioner is the owner of vehicle No. BR-27C-0893 and he was transporting stone, by way of illegal transporting challans through the said vehicle. A raid was conducted on 14.08.2015 at about 01:00 P.M. against illegal transportation of minerals with the help of



Rampur Police Station, Gaya on Dobhi Gaya Patna main road. During the course of inspection, the vehicle of the petitioner was inspected and the said vehicle was carrying approximately 500 cft. stone chips. The driver of the carrier on interrogation produced one transporting challan on which the place of dispatch was mentioned as Chhechhima Nagar, Hunterganj, Jharkhand and the time and date of dispatch was mentioned as 02:00 P.M. on 12.08.2016. Quantity of mineral was mentioned as 16 tonnes which is approximately 400 cft. The transportation challan i.e. Annexure-2 also shows the place of delivery was Chakand, District Gaya and the said stone chips are to be unloaded by 06:00 P.M. on 13.08.2015.

5. As per the details mentioned in the transporting challan, the said carrier had to cross Rampur Police Station before 06:00 P.M. on 13.08.2015 because Chakand is at a distance of 15 k.m. from Rampur Police Station. But during the raid, it was revealed that the said carrier was passing Rampur P.S. after approximately 28 hours late from



the date and time as mentioned in the transporting challan. The place of dispatch and the place of shipping of goods/delivery is actually within a distance of 65 k.m. only and under no circumstances should have taken more than 24 hours in transportation and delivery of the material.

6. The counter affidavit further disclose that after unloading the stone chips at Chakand, on 13.08.2015 again the same transporting challan was reused for transportation of illegally mined minerals and thus it is a case not only of misuse of transporting challan issued by the Department of Mines and Geology Government of Jharkhand but also illegal transportation of illegally mineral stone from Gaya District.

7. It is apprehended that the said carrier after unloading stone chips on 13.08.2015 at Chakand again moved to a nearby mining site of Gaya District and from the same transporting challan another 500 cft. stone chips was illegally transported through the same carrier. During the inspection, the driver of the said carrier in



apprehension of arrest escaped from the site. As there was no alternative left for raid team, the vehicle was kept under the safe custody of Rampur Police Station till further the order of the competent officer, i.e. the District, Mining Officer, Gaya.

8. It is further contended that 15th August, was a National Holiday and 16th August was Sunday, the petitioner being the owner of the said vehicle approached the District Mining Office, Gaya on 17.08.2015 and submitted a bond on a non-judicial stamp paper of Rs. 100/- stating therein that he was the owner of the said vehicle and he was ready to deposit the royalty, price value and penalty for the said quantity of stone chips. Furthermore, the petitioner also submitted Rs. 45,000/- via DD-No. 40698, dated 17.08.2025 and he also gave in writing that this type of mistake will not be repeated in future and requested for release of the said vehicle along with stone chips. The vehicle of the petitioner was released vide Letter No. 1720 dated 17.08.2015 on the bond petition.



9. The counter affidavit further disclose that due to continuous illegal transport of minerals and over-loading the vehicle which ultimately leads to damage of public property Letter No. 3536 dated 19.09.2014 was jointly issued by the Chief Secretary, DGP Bihar to all the Collectors and Superintendent of Police(SP) and Director General of Police (DGP) Bihar to make regular inspection and to take action against the illegal mining/transportation of minerals. Later a DO Letter No. 1599/M dated 18.08.2015 was also issued to all the Divisional Commissioners by the Principal Secretary, Department of Mines and Geology regarding the same. Further, the Department of Mines and Geology also issued instructions vide Letter No. 3228 dated 20.08.2015 to send action taken report, on weekly basis against the illegal mining. In compliance of these instructions, the District Task Force has been conducting raids on different routes in Gaya District.

10. A supplementary affidavit was also filed by the petitioner contending that the counter affidavit of the respondent stated several conditions



and unverified facts without substantial evidence or supporting documents and he further reiterated that the vehicle of the petitioner with stone chips was detained on the night of 13.08.2015 and not on 14.08.2015. No requisition letter for police sent by the Mining Officer is annexed to show that the raid was conducted only on 14th night and not on 13th night of August 2015. Further, no weight or measurement report is annexed with the counter affidavit to show that the vehicle was carrying more than 16 tons or 400 cubic feet of stone chips.

11. It is contended in the supplementary affidavit that no material or document or inquiry report annexed with the counter affidavit to support the claim of the state. Annexure-A clearly disclose that the truck was detained on 13.08.2015 night and further the petitioner has executed the said bond under pressure of respondent authority, as well as in order to secure release of his vehicle and stone chips are to be delivered to the receiving party at the earliest and therefore, prayed to allow the Writ petition.



12. Heard the Learned counsel for the petitioner as well as the Learned counsel for the State and perused the records.

13. On perusal of the record, it is evident that distance between Hunterganj Chatra, Gaya and the Chakand Gaya is about 65 kms and normal travel time for journey would be two hours, however, the challan of the petitioner disclose that the goods were delivered from Hunterganj, Chatra of 02:00 P.M. and were required to reach Chakand on or before 06:00 P.M. on 13.08.2013, this implies that the total time journey allowed as per the challan was 28 hours. Despite this the vehicle did not reach its destination within specified period of 28 hours for a distance that could have been travelled in two hours.

14. The petitioner contends that the delay was caused due to a traffic jam and restriction on vehicle movement in the cities of Hunterganj and Gaya during daytime which resulted in the journey time of 32 hours. However, there is no explanation as to why the driver of the vehicle abandoned the vehicle from the spot and as to why the delay



occurred for the petitioner to approach the respondents. If at all the seizure took place on 13.03.2015, what made the petitioner not to approach the respondents till 17th of August 2015 is also not explained by the petitioner.

15. Additionally, the petitioner has failed to explain why there was a delay in approaching the respondents, if the seizure took place on 13.03.2015, the petitioner has not clarified why he did not approach the respondents till 17.08.2015.

16. Moreover, the petitioner himself submitted a written statement, acknowledging his mistake and assuring that such an incident would not be repeated in future. As per Section 21 of Mines and Minerals(Development and Regulation) Amendments Act, any illegal mining and transportation are punishable imprisonment for a term of up-to five years and a fine of Rs. 5,00,000/- (Five Lakhs Only). In the present case, no criminal proceeding was registered against the petitioner. Therefore, considering the aforesaid discussion and reason, this Court is not inclined to interfere with the orders of



the respondents imposing a penalty on the petitioner.

17. Accordingly, the Writ petition is dismissed as devoid of merits.

(G. Anupama Chakravarthy, J)

Manish/-

AFR/NAFR	NAFR
CAV DATE	N/A
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