

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19503 of 2024

Manoj Kumar @ Manoj Kumar Singh, S/o Ram Bilash Singh, Resident of
Ward No.9, Company Sarai, Civil Line, P.S.- Sasaram, District- Rohtas.
... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Mines and Geology, Govt. of Bihar Patna, Bihar.
 2. The District Magistrate, Rohtas, District- Rohtas.
 3. The Director, Mines and Geology, Rohtas at Sasaram.
 4. The Superintendent of Police, Rohtas.
 5. The S.H.O., Dehri (Muffasil) Police Station, Dehri, Rohtas.
- Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Mithilesh Kumar Singh, Advocate
For the State	:	Mr. Mujtabaul Haque, GP-12
		Mr. Pranoy Kumar, AC to GP-12

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

8 04-11-2025 Heard learned counsel for the petitioner and

learned counsel for the State.

2. The petitioner has moved the Court for the

following reliefs:

“(i) For setting aside the letter no. 995/M, Sasaram dated 24.6.2024 (Annexure-P-8) issued by the Assistant Director, Mines and Geology, Rohtas at Sasaram whereby he has asked to the District Magistrate, Rohtas at initiate confiscation proceeding against the truck of the petitioner bearing Registration No. BR24GB-4065 which was seized by the respondents for the allegation of being it overloaded as well as for setting aside the order dated 30.8.2024 (Annexure-A) passed by the District Magistrate, Rohtas in Mines Confiscation Case No. 2/2024 whereby he has ordered to confiscate the vehicle in question and put it on auction. Further for setting aside the



order passed in Memo No. 4884 dated 20.11.2024 (Annexure-P-10 to the main writ application) by the Mines Commissioner, Bihar, Patna in Confiscation Appeal No. 19/2024 whereby he has affirmed the order dated 30.8.2024 passed by the District Magistrate, Rohtas.

(ii) For issuance of appropriate writ (s), order (s), direction (s) to the respondents concerned to not to initiate confiscation proceeding against the truck in question till the disposal of present writ application.

(iii) For issuance of appropriate writ (s), order (s), direction (s) to the respondents concerned to release the truck in question in favour of petitioner.

(iv) For issuance of appropriate writ (s), order (s), direction (s) to the respondents concerned to not to put the vehicle in question on auction till the disposal of this writ application.

(v) For issuance of appropriate writ (s), order (s), direction (s) to the respondents concerned to pay compensation for the damages caused to the truck in question as well as the monetary loss in the business of petitioner due to illegal act of the respondents.”

3. The pleadings are complete in this case.

4. The truck of the petitioner bearing Registration No. BR24GB-4065 was seized which was loaded with sand and a penalty of Rs. 3,33,360/- was imposed upon the petitioner by the Mining Department. Before imposing the penalty, the petitioner was neither issued any show cause nor was he ever heard. Thereafter, when the petitioner did not deposit the aforesaid amount within one month then



confiscation proceeding was initiated against him vide Mines Confiscation Case No. 2 of 2024 which was decided by the District Magistrate, Rohtas at Sasaram vide order dated 30.08.2024. The appeal preferred against the order dated 30.08.2024 has been dismissed by the order dated 20.11.2024 passed by the Mines Commissioner, Bihar.

5. Learned counsel for the Mining Department has supported the order impugned. A specific query was made to the learned counsel for the Mining Department as to whether any notice was given to the petitioner before imposition of the penalty and whether the petitioner was heard. He has fairly submitted that the Mines Department does not serve any notice before imposing any penalty and therefore, there is no question of any personal hearing.

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. Summarizing the principles of law, the Hon'ble Supreme Court in the case of ***Kranti Associates (P) Ltd. v. Masood Ahmed Khan, reported as (2010) 9 SCC 496***, had held as under -

“46. The position in the United States has been indicated by this Court in S.N. Mukherjee [(1990) 4 SCC 594 : 1990 SCC (Cri) 669 : 1991 SCC (L&S) 242 : (1991) 16 ATC 445 : AIR 1990 SC 1984] in SCC p. 602, para 11 : AIR para 11 at p. 1988 of the judgment. This Court held that in the United States the courts have always insisted on the recording of reasons by administrative authorities in exercise of their powers. It was further held that such recording of reasons is required as “the courts cannot exercise their duty of review unless they are advised of the considerations underlying the action under review”. In S.N. Mukherjee [(1990) 4 SCC 594 : 1990 SCC (Cri) 669 : 1991 SCC (L&S) 242 : (1991) 16 ATC 445 : AIR 1990 SC 1984] this Court relied on the decisions of the US Court in Securities and Exchange Commission v. Chenery Corpn. [87 L Ed 626 : 318 US 80 (1942)] and Dunlop v. Bachowski [44 L Ed 2d 377 : 421 US 560 (1974)] in support of its opinion discussed above.”

“47. Summarizing the above discussion, this Court holds:

(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done



as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or "rubber-stamp reasons" is not to be equated with a valid



decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor [(1987) 100 Harvard Law Review 731-37] .)

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija v. Spain [(1994) 19 EHRR 553] EHRR, at 562 para 29 and Anya v. University of Oxford [2001 EWCA Civ 405 (CA)] , wherein the Court referred to Article 6 of the European Convention of Human Rights which requires, “adequate and intelligent reasons must be given for judicial decisions.

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of “due process”.

8. 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 petitioner without issuing show-cause notice and not affording him an opportunity of hearing cannot be sustained.



9. In my opinion before imposition of any penalty, the petitioner should have been issued a show cause notice and should have been given a proper hearing in the case.

10. The penalty of Rs. 3,33,360/- imposed upon the petitioner and the orders of confiscation passed in Confiscation Case No. 02 of 2024 dated 30.08.2024 passed by the District Magistrate, Rohtas and the appellate order dated 20.11.2024 passed by the Mines Commissioner are hereby quashed and set aside.

11. The matter is remitted back to the District Mines Officer for fresh consideration in accordance with law i.e., the District Mines Officer will issue a show cause notice to the petitioner and after hearing the petitioner he will pass a reasoned and speaking order in accordance with law.

12. The aforesaid exercise should be completed within eight weeks from the date of communication/ production of a copy of this order. The petitioner will co-operate in the proceedings as the truck in question has been released in favour of the petitioner by an interim order of this Court dated 13.05.2025. The aforesaid interim order releasing the truck bearing Registration No. BR24GB-4065 of the petitioner is made absolute.



13. The Truck shall not be sold by the petitioner during the pendency of the proceeding before the Mines Department and shall be produced before the authorities as and when directed.

14. This application is disposed of with the aforesaid directions.

(Sandeep Kumar, J)

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