

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20838 of 2018

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Smt. Sanjana Kumari Wife of Madhusudan Kumar, Resident of Mohalla-
Belbanwa, P.S.- Motihari Town, District- East Champaran.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Forest and Environment Department, Government of Bihar, Patna.
2. The Secretary, Forest and Environment Department, Government of Bihar, Patna.
3. The District Magistrate, Nalanda.
4. The Authorized Officer cum Divisional Forest Officer Nalanda, Extension Forest Division, Bihar Shar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar, Advocate
For the Respondent/s : Mr. Jai Prakash Sharma, AC to GP-21

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
ORAL ORDER

6 22-07-2025 Heard learned counsel for the petitioner and learned
counsel appearing for the respondents-State.

2. The petitioner has filed this writ application for issuance of appropriate writ/writs order / orders, direction / directions for quashing the order dated 04.07.2018 passed in Confiscation Case No.01 / 2001 passed by Respondent No.4, the Authorized Officer-cum-Divisional Forest Officer, who dismissed the petition filed by petitioner for release of her vehicle i.e. the truck bearing registration no.BR05AG-0065 by ignoring the fact that criminal case launched on same issue ended in acquittal of petitioner as there was no material on



record showing that seized morum was a forest product and thus there was no reason to confiscate the truck in question which is the only source of livelihood of petitioner.

3. Learned counsel for the petitioner submits that on 23.03.2001 truck of the petitioner was seized loaded with morum alleged to be a forest product and accordingly a seizure list under Section 52 of Indian Forest Act was prepared, driver was arrested and a criminal case was launched being Criminal Case No.28C3 (Forest) of 2001 and said case was tried and petitioner along with other named accused were acquitted from charge vide judgment dated 11.11.2016 (Annexure-2). It is further submitted by the petitioner that the respondent authorities on the other hand also initiated a confiscation proceeding by invoking the power conferred under Section 52(4c) of Indian Forest Act and passed an order dated 21.05.2001 and confiscated the truck of the petitioner, ignoring the chalans produced by Sri Ram Babu Singh regarding having mining rights and without ascertaining whether that part of land was a forest area or lease hold area, final order was passed in Confiscation Case No.08 of 2001 by the respondent no.4. The petitioner being aggrieved by the said order preferred an appeal before the respondent Collector, which was dismissed and



thereafter the petitioner had also filed a revision application bearing Revision Case No.08 of 2001 which was heard analogous to Revision Case No.09 of 2001 and both cases were dismissed vide order dated 05.01.2002 (Annexure-4). Aggrieved by these orders the petitioners had earlier filed a writ application bearing Criminal Writ No.41 of 2002. This Hon'ble Court while disposing of the said writ application held an observed as follows:

“After disposal of Cr.W.J.C. No. 47/2002 when initially this application was taken up for consideration it was ordered on 6th August 2003 to be placed after disposal of SLP (Criminal) No. 4559/2002 preferred by opposite party against the order passed in Cr.W.J.C. No. 47/2002. Somehow or the other this application could not be taken up, however, listed after long lapse of time and members of Bar are in agreement that having regard to the similarity of the matter direction of the Apex Court in Cr. Appeal No. 430/2003 may equally be go in this case also. Consequently, impugned orders are set aside and matter is remitted to the original authority for disposal of the confiscation proceeding in accordance with law after affording reasonable opportunity of adducing evidence to the parties. Let a confiscation proceeding, if still pending, be expedited.”

4. Manifestly, the impugned orders passed earlier were set aside and the petitioner was remitted to the original authority for disposal of the confiscation proceeding in accordance with law after being afforded reasonable opportunity



of adducing evidence. It is in this confiscation proceeding that the original authority has now passed the order dated 04.07.2018 in Confiscation Case No.01 of 2001, which has been challenged by the petitioner in the present case writ application.

5. This is the order passed by the original authority which has been straightway challenged in the writ application whereas there exists a provision for filing an appeal against the said order and also there exists a provision for filing revision in case the appellate order goes against the petitioner as well. The petitioner has till date not filed any appeal against the order dated 04.07.2018 passed in Confiscation Case No.01 of 2001.

6. Under the aforesaid facts and circumstances, it is manifest that there exists an alternative remedy available to the petitioner to file an appeal against the order dated 04.07.2018 passed in Confiscation Case No.01 of 2001, before the Collector, Nalanda, hence the present writ application is held to be not maintainable. It is at this stage that the learned counsel for the petitioner submits that he is willing to withdraw the present writ application, if this Court grants him the liberty to file statutory appeal before the Collector, Nalanda against the order dated 04.07.2018 passed in Confiscation Case No.01 of 2001 passed by Divisional Forest Officer, Nalanda.



7. Considering the belated prayer made by learned counsel for the petitioner, this Court is permitting him to withdraw the present writ application with liberty to file statutory appeal before the Collector, Nalanda within one month from the date of passing of this order. If such an appeal is filed by the petitioner within the stipulated time, the District Magistrate-cum-Collector, Nalanda will decide the same in accordance with law.

8. With the aforesaid liberty granted, the present writ application is disposed of.

(Alok Kumar Sinha, J)

Prakash Narayan

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