

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1419 of 2024

Arising Out of PS. Case No.- Year-0 Thana- District- Saran

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Brij Kishor Prasad, Son of Sohaban Ray, resident of Village- Jalalpur, PS-
Doriganj, Dist- Saran

... .. Petitioner/s

Versus

1. The State Of Bihar, through Chief Secretary, Govt. Of Bihar, Patna, Bihar Bihar
2. The Additional Chief Secretary Cum Mines Commissioner, Patna, Bihar Bihar
3. The Mines Development Officer, West Champaran , Motihari, Bihar Bihar
4. The District Magistrate Cum Collector, Saran, Bihar Bihar
5. The Mines Inspector, Motihari, Saran, Bihar Bihar
6. Station House Officer, PS- Sangrampur, Saran, Bihar Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Ms. Chhaya Kirti, Advocate
For the Respondent/s	:	Mr. Pankaj Kumar, SC-12
For the Dept. of Mines	:	Mr. Utsav Anand, Advocate

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
CAV JUDGMENT

Date : 20-02-2026

The petitioner has filed the present writ petition
seeking following reliefs :

*“(i) For issuance of an appropriate writ(s),
order (s) or direction (s) in the nature of
mandamus or any other writ(s) order(s)
direction(s) to the respondent authorities to
release the vehicle i.e. 12- wheeler Truck
bearing registration no. BR01GL9906 in
favour of the petitioner as seized by
respondent no.5-Mines Inspector, Motihari
vide memo of seizure dated 08.11.2023 and*



further taken into the custody of SHO, P.S.- Sangrampur i.e. respondent no.6 under actions prescribed in Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation and Storage) Rules, 2021.

(ii) For issuance of appropriate writ(s), order(s) or direction(s) in the nature of mandamus or any other writ(s) order(s) direction(s) to the respondent authorities to cancel the letter dated 27.11.2023 whereby which the respondent no. 3 has imposed penalty in order to get the vehicle released.

(iii) For issuance of appropriate writ(s), order(s) or direction(s) in the nature of mandamus or any other writ(s) order(s) direction(s) to the respondent authorities to pay the damages or compensation for the loss so suffered by the petitioner due to the illegal actions of the respondents as it has affected the business of the petitioner as well as deteriorated the value of the vehicle.

(iv) For issuance of any other writ(s) order(s) or direction(s) as the petitioner is entitled to.

2. Briefly stated, the facts giving rise to the present writ petition are that the petitioner is stated to be the owner of a 12 wheeler Truck bearing registration no. BR-01GL-9906 with Chassis No. MAT466388G3G55989 and Engine No. 61G68352458. The petitioner is engaged in transportation



business. The petitioner claims that he possessed a valid *challan* dated 05.11.2023 issued by the Government of Bihar, explicitly authorizing the transportation of yellow sand weighing 22.70 metric tonnes equivalent to 567.50 CFT in volume.

3. Further case of the petitioner is that during a routine inspection, the truck of the petitioner was inspected by the Mines Inspector, Motihari and further weighed as 34.695 MT in gross which was found within the permissible limit for transportation. However, the loaded vehicle was seized by the Mines Inspector and later sent to the custody of SHO, Sangrampur without any valid reason. The said vehicle has the valid permit laden limit of 35,000 Kg (35MT) in total and the vehicle with load was found well within the permissible weight limit. Even then, the Mines Development Officer, vide letter dated 27.11.2023, under Rule 56(4) of Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation and Storage) Amended Rules, 2021 (hereinafter to be referred as 'Rules, 2021'), directed the petitioner to pay penalty of Rs. 2,65,596/- within thirty days.

4. The learned counsel for the petitioner submitted that the concerned respondent has arbitrarily seized the vehicle of the petitioner, who is the *bonafide* owner of the vehicle in



question and is engaged in the business of transportation. For carrying sand on the said vehicle, the petitioner has got a valid *challan* and the driver was carrying the same.

5. The learned counsel further submitted that at the time of issuance of *challan*, the empty truck (unladen) was weighed as 11.49 MT and after loading of yellow sand, it was weighed as 34.19 MT in total, which was within the permissible limit of 35MT as mentioned in the goods permit issued by the Transport Department, Bihar.

6. The learned counsel further submitted that in view of Rule 56 of the Rules, 2021, the officers are empowered to seize the vehicle if it is found without a valid *challan* or permit, in accordance with law. However, in the instant case, the gross vehicle weight was found to be well within the permissible limit and yet the respondent authorities, in hope of illegal gratification, wrongly seized the vehicle and taken it into custody.

7. The learned counsel further submitted that the respondent authorities in excess of their powers have overlooked the *challan*, determined the weight of the loaded sand on their own and wrongly seized the vehicle harassing the petitioner mentally and financially.



8. The learned counsel further submitted that the gross vehicle weight was duly found within the permissible laden limit as given in the certificate of registration of the vehicle, the letter dated 27.11.2023 directing the petitioner to pay penalty of Rs. 2,65,596/- within thirty days is not sustainable in the eyes of law. In this regard, the learned counsel relied upon a judgment dated 26.04.2024 of this Court passed in CWJC No. 11469 of 2023.

9. The learned counsel further submitted that the mineral such as sand which is under transportation in the instant case has to be measured in volume as relevant provisions for different miners are classified in their respective measuring units. In other words, it can be said that the volume of sand may differ in weight and, therefore, simple calculation of deducting the unladen weight of truck from the gross weight of the truck could not determine the actual quantity of sand being transported. Therefore, the respondent no. 5 was wrong in considering the weight of the sand while it ought to have been measured in volume and the same could be verified with the quantity mentioned in the *challan*.

10. The learned counsel further submitted that in case of any dual method of determination of weight of the vehicle or



permissible limit of *challan*, this Court may direct the respondent authorities to reweigh the loaded sand in volume so as to verify the *challan* dated 05.11.2023 wherein volume of yellow sand and its equivalent weight is mentioned.

11. Thus, learned counsel submitted that seizure of vehicle has caused financial loss to the petitioner and also led deterioration in value of the vehicle and it would further hamper the business of the petitioner leading to deprivation of the right of the petitioner conferred under Articles 14 and 21 of the Constitution of India.

12. On the other hand, learned counsel appearing on behalf of Department of Mines vehemently contended that the vehicle of the petitioner has been rightly seized. The learned counsel raised a preliminary objection with regard to maintainability of the writ petition in view of the fact that the impugned letter dated 27.11.2023 issued by the respondent no. 3, which has sought to be set aside in the present writ petition, is an appealable order to be challenged before the Collector under Rule 67(1) of the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation, Storage) Rules, 2019 (hereinafter to be referred as 'the Rules, 2019').

13. The learned counsel further submitted that after



seizure of the vehicle, the Mining Inspector, Motihari prepared a seizure list of the said truck and subsequently, the *challan* of the truck for transportation of sand was produced by the owner of the said truck/petitioner and from perusal of the said *challan*, it transpired that the total weight of the truck including sand was 22.70 MT, whereas as per the registration certificate of the said truck, it transpired that the total capacity of the truck to carry any mineral was 35,000 Kg and total weight of the empty truck was 10,000 Kg. Subsequently, the truck loaded with sand was weighed in the presence of the petitioner, whereupon the total weight of the truck loaded with sand came as 34,695 Kg.

14. The learned counsel further submitted that after deducting the total estimated weight of the empty truck i.e. 10,000 kg from the total weight of the truck loaded with sand i.e. (34,695-10,000) comes as 24,695 Kg. Learned counsel further submitted that according to mineral transit pass/e-challan Department of Mines and Geology, Government of Bihar, 1 MT of sand is equivalent to 25 CFT sand in volumetric quantity and, in such circumstance, the total 24.695 MT of sand being carried on the vehicle in question is equivalent to 617.25 CFT sand.

15. The learned counsel further submitted that from perusal of the *challan* dated 05.11.2023 issued by the



Government of Bihar, it would be apparent that the total permissible quantity of sand allowed to be transported was 567.50 CFT and therefore the vehicle in question was overloaded with (617.25-567.50 CFT) i.e. 49.75 CFT sand.

16. The learned counsel further submitted that the illegal transportation of 49.75 CFT excess sand has caused loss to the public exchequer and, in such circumstance, following the provisions stipulated in proviso to Rule 56(2) of the Rules, 2019, the Mineral Development Officer, East Champaran, Motihari, issued a memo no. 959 dated 27.11.2023 to the petitioner imposing a cost of penalty as well as the amount of compounding fee, which comes to the tune of Rs. 2,65,596/- and as such the imposition of penalty is in consonance and within the four corners of the proviso to Rule 56(2) of the Rules, 2019.

17. I have given my thoughtful consideration to the rival submission of the parties and perused the records.

18. Having regard to the rival submission as well as claim and counter claim regarding overloading, it appears the vehicle of the petitioner was re-weighed on weighbridge and it was found to be carrying sand in excess of the permissible weight to the tune of 49.75 CFT which roughly comes around 2 MT. So, action of the respondent no.5 appears to be in tune with



the statutory provision especially Section 56(1) (2) and Section 60(2) of the 'Rules 2021'. Therefore, no orders could be passed for release of the vehicle straightway as prayed for by the petitioner.

19. However, considering the fact that the petitioner claims that when the vehicle was loaded and weighed at the weighbridge, its laden weight came to be 34.19 MT (34190 kg.) and subsequently when it was weighed at the instance of respondent authorities, its weight came to be 34695 kg, the difference appears to be only 505 kg. On the other hand, the calculation of the Mining Department shows it to be overloaded with 2 MT though the weight of the laden truck was found to be 34695 kg.

20. Therefore, I think it proper to allow the alternative prayer of the petitioner for reweighing the vehicle both by voumetric measurement as well as on weighbridge and the concerned respondent authorities are directed to get the vehicle of the petitioner reweighed by voumetric measurement as well as on weighbridge by fixing a date in presence of the petitioner or his representative within thirty days from the date of receipt/production of a copy of this order.

21. At the same time, it is made clear that if the weight



is found to be within permissible limit of *challan*, the vehicle of the petitioner would be released forthwith. In case it is found to be overloaded, the vehicle will be released after payment of penalty amount of Rs.2,65,596/- in six equal monthly installments considering the mandate of law and observation made by the Hon’ble Supreme Court the case of ***Sunderbhai Ambalal Desai vs. State of Gujarat, (2002) 10 SCC 283*** regarding release of seized vehicles.

22. Accordingly, the present writ petition is partly allowed.

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	NAFR
CAV DATE	12.12.2025
Uploading Date	20.02.2026
Transmission Date	20.02.2026

