

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4027 of 2017

Sonu Kumar Chaurasiya, son of Kalika Chaurasiya, r/o village - Chilahari,
P.S. Dumrav, District - Buxar

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Forest Department, Government of Bihar, Patna.
2. The Chief Conservator of Forest Bihar, Patna.
3. The District Magistrate, Rohtas, Sasaram
4. The Authorized Officer Cum Divisional Forest Officer Rohtas, Sasaram
5. The District Forest Officer, Rohtas, Sasaram
6. The Range Officer Sasaram Forest Area at Sasaram
7. The Forestor Tilauthu Cum Darigaon, Forest Circle District Rohtas

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Uma Shankar Singh
For the Respondent/s : Mr.Raghwanand- Gall

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 26-08-2019

1. This writ petition has been filed for issuance of an appropriate writ for quashing the order dated 16.9.2016 passed by Respondent No. 4 in Confiscation Case No. 135 of 2016 by which he has rejected the application of the petitioner for provisional release of his vehicle as contained in Annexure-6. Petitioner has also made prayer for issuance of direction to the Respondent No. 4 to release the vehicle bearing Registration No. UP60H-8955 which is subject matter of confiscation case No. 135 of 2016 arising out of Forest Case No. 53 of 2016.

2. Heard learned counsel for the petitioner and State.



3. Counsel for the petitioner submits that vehicle of the petitioner was confiscated in the year 2016 in Confiscation Case No. 135 of 2016. Petitioner has filed show cause on 29.6.2016 but no final order has been passed in the aforesaid Confiscation Case and the same is still pending. Counsel for the petitioner further submits that earlier petitioner has approached this Hon'ble Court for release of his vehicle and the Hon'ble High Court by order dated 12.08.2016 passed in CWJC 12062 of 2016 directed the Respondent No. 4 i.e. the Authorized Officer-cum Divisional Forest Officer, Rohtas at Sasaram, to consider the application of the petitioner for provisional release of the vehicle in accordance with law.

4. Counsel for the petitioner submits that Respondent No. 4 by order dated 16.9.2016 has rejected the petition of the petitioner for provisional release of the vehicle in Confiscation Case No. 135 of 2016 which is totally illegal. He further submits that vehicle of the petitioner has illegally been seized. There was valid challan for the materials loaded in the vehicle. The vehicle of the petitioner is lying in the open sky. The condition of vehicle is every day deteriorating due to natural decay. The petitioner is facing day-to-day loss due to illegal seizure of his vehicle. The



photocopy of Challan has been enclosed as Annexure-3 to the writ petition.

5. Mr. Prabhat Kumar, Asstt. counsel to GA-XI has appeared and submitted that vehicle of the petitioner was found loaded with forest produce. He further submits that order dated 16.9.2016 passed by Respondent No. 4 is in accordance with law.

6. This Court finds that vehicle of the petitioner was seized on 1.5.2016 on the ground that it was found loaded with stone chips which was acquired by illegal mining from reserve forest area. The petitioner has produced valid challan dated 30.4.2016 (Annexure-3) in support of the stone chips loaded on the vehicle.

7. The petitioner has appeared in Confiscation Case and filed his show cause on 29.6.2016, but till date Confiscation Proceeding has been kept pending by Respondent No. 4. Petitioner has approached this Hon'ble Court earlier. The Hon'ble Court vide order dated 12.8.2016 passed in CWJC No. 12062 of 2016 has directed Respondent No. 4 to consider the application of the petitioner for provisional release of the vehicle in accordance with law. Thereafter, Respondent No. 4 has passed impugned order dated 16.9.2016, by which, the prayer of the petitioner for provisional release of the vehicle has been rejected.



8. From perusal of the impugned order, this Court finds that there is no discussion regarding validity of Challan submitted by the petitioner before the Authority. The petition of the petitioner has been rejected merely on the ground that vehicle was found loaded with illegal stone chips acquired from the reserve protected forest area which is violation of provisions of Section 33 of Indian Forest Act.

9. This Court finds that there is separate provisions under Section 40(2) of Bihar Minor Mineral Concession Rules, 1972 for taking appropriate action for unauthorized extraction and removal of minor minerals.

10. Admittedly, the vehicle was found loaded with stone chips. The petitioner has produced valid Challan dated 20.4.2016 in support of the aforesaid stone chips. The Show cause has also been filed by the petitioner on 29.6.2016, but no final order has been passed by Respondent No. 4 in Confiscation Case No. 135 of 2016.

11. In the impugned order dated 16.9.2016 passed by the Authorized Officer cum Divisional Forest Officer, Rohtas, Sasram (Respondent No. 4), there is no discussion about the Challan submitted by the petitioner. Similarly, there is no



discussion as to how the loaded stone chips was extracted from reserved forest area.

12. Therefore, this Court finds that the impugned order is illegal and not in accordance with law.

13. The Authorized Officer cum Divisional Forest Officer, Rohtas, Sararam (Repondent No. 4) is directed to release the vehicle of the petitioner bearing Registration No. UP60H-8955 within a period of one week from the date of receipt/production of copy of this order after proper verification of the relevant documents with regard to ownership of truck by petitioner. The petitioner will file affidavit that he will produce the vehicle as and when required by the trial court or the confiscating authority and will not dispose off the vehicle till disposal of the Forest Case or Confiscation Case.

14. This writ petition is accordingly allowed.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	31/08/2019
Transmission Date	N.A.

