
(2005) 03 JH CK 0065
In the Jharkhand High Court
Case No : Writ Petition (C) No. 1380 of 2005

Kanchan Agrawala

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 29-03-2005

Acts Referred:

Citation : (2006) 1 JCR 341a

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : M.S. Anwar and Alfat Hussain, for the Appellant; Sheela Prasad, G.P. IV, for the Respondent

Judgement

M.Y. Eqbal, J.—Heard the counsel for the parties.

2. The petitioner seeks a direction upon respondent No. 4, the Divisional Forest Officer, East Division, Hazaribagh to release the vehicle being truck No. BPY 7482 which was confiscated by order dated 14.3.2002.

3. It appears that a confiscation proceeding for committing forest offence was initiated and the vehicle of the petitioner was seized loaded with 250 small bags containing 30 Kgs of soft coal each. Against the final order of confiscation the petitioner filed appeal before the Deputy Commissioner which was numbered as appeal No. 21/2002. When the appeal was not disposed of the petitioner filed WPC No. 1505/2004. The writ, petition was disposed of on 17.3.2004 by passing following order :

Heard the counsel for the parties.

The petitioner has challenged the order passed by the Divisional Forest Officer, East Division, Hazaribagh as confiscating authority whereby he has confiscated the vehicle of the petitioner along with 250 gunny bags of soft coal,

Mr. Anwar, learned Counsel appearing on behalf of the petitioner submits that the coal being not forest produce, the entire confiscation proceeding is vitiated in law.

In my opinion, the petitioner should first avail the statutory remedy by way of appeal before the Deputy Commissioner, It is stated that an appeal has been filed before the Deputy Commissioner, Hazaribagh being appeal No. 21/2002 but the Deputy Commissioner is not passing final order although the appeal was heard on 7.6.2002. Learned Counsel produced before me a copy of the order-sheet which shows that the Deputy Commissioner, Hazaribagh heard both the parties and the order has been reserved.

I, therefore, direct the Deputy Commissioner, Hazaribagh to pass final order in the said appeal as expeditiously as possible and preferably within a period of three weeks from the date of production of a copy of this order.

With the aforesaid direction this writ application is disposed of.

4. It was only thereafter the appeal was disposed of the Deputy Commissioner and the case was remanded to the Divisional Forest Officer for reconsideration on certain point as to whether the truck owner was present at the time of occurrence. While remanding the matter the Deputy Commissioner directed the Divisional Forest Officer to dispose of the case within ten days.

5. Mr. Anwar, learned Counsel for the petitioner submitted that after remand the-confiscation case has not yet been, disposed of and the same is still pending. Learned Counsel submitted that the vehicle of the petitioner has been lying in the open sky for the last two years.

6. In the facts of the case, if the confiscation proceeding has not yet been finally disposed of by the Divisional Forest Officer, then he is directed to release the vehicle of the petitioner on furnishing bank guarantee by the petitioner for an amount of rupees two lacs from a nationalized bank. The vehicle shall be released within three days from the date of furnishing the bank guarantee.

7. This writ application is, accordingly, disposed of.