

(2001) 10 JH CK 0036
In the Jharkhand High Court
Case No : Writ Petition (C) No. 3938 of 2001

Rajiev Kamal Singh

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 11-10-2001

Acts Referred:

Forest Act, 1927 — Section 53, 68

Citation : (2001) 10 JH CK 0036

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : Kalyan Roy, for the Appellant; Shamim Akhtar, SC-II, for the Respondent

Judgement

The Court

1. Heard learned counsel for the petitioner, learned counsel for the State as also Divisional Forest Officer, North Division, Chaibasa.
2. The main grievance of the petitioner is that the order dated 10th August. 2001 has been passed by the respondent DFO, without giving proper opportunity to the petitioner.
3. The case of the petitioner is that the truck with Bolder (stone) was seized by the DFO, North Division Chaibasa and confiscation proceeding being Case No, 9 of 2001 was initiated. In spite of application, when the truck was not released, he has to move this Court in W.P. (C) No. 3501 of 2001. In (sic) the Court passed order on 3rd August, 2001. Directed the DFO to pass appropriate order within fifteen days of the application, as was preferred by the petitioner on 23rd August. 2001.
4. Counsel for the petitioner submitted that the notice was issued on the petitioner on 20th July, 2001. granting fifteen days time to file show cause but before such period. It was fixed on 30th July, 2001. The DFO, North Division, Chaibasa was not present and the matter was subsequently taken up on 10th

August, 2001 when instead of passing any order relating to release of truck, the case was finally decided, without giving proper opportunity to the petitioner.

5. The DFO, North Division, Chaibasa, who is present in the Court, submitted that as the petitioner requested for early disposal of the case, after giving full opportunity, the case was disposed of on 10th August, 2001. Taking into consideration all the relevant materials, as were placed and were on record.

6. On hearing the parties, the Court feels that the matter requires reconsideration. as the petitioner could not place all the materials by the day the case was finally disposed of.

7. For the reasons aforesaid, the order dated 10th August, 2001, passed in Confiscation Case No. 9 of 2001 is set aside. The petitioner is directed to appear before the DFO, North Division, Chaibasa on or before 17th October, 2001 and may lead evidence in its support. The DFO, North Division, Chaibasa, will hear the matter, take into consideration the evidence, if any led by the petitioner and other materials on the record and will pass a reasoned order, in accordance with law, as early as possible.

8. In case it is not possible for the DFO, North Division, Chaibasa, to decide the case on merit by 31st October, 2001. In such case he will decide the issue relating to release of truck in question on or before 17th August, 2001.

9. The date has been fixed with consent of the parties.

10. The writ petition stands disposed of with the aforesaid observations and directions.

11. Personal appearance of the Divisional Forest Officer, North Division, Chaibasa, is dispensed with.

12. Writ petition disposed of.