
(2003) 05 JH CK 0005
In the Jharkhand High Court
Case No : L.P.A. No. 114 of 2003

Sudarshan Prasad Bhagat

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 14-05-2003

Acts Referred:

Constitution of India, 1950 — Article 226
Forest Act, 1927 — Section 52

Citation : (2003) 3 JCR 765

Hon'ble Judges : P.K. Balasubramanyan, C.J; R.K. Merathia, J

Bench : Division Bench

Advocate : S.S. Rahman and T. Mistry, for the Appellant; R.S. Mazumdar, G.A., for the Respondent

Final Decision : Dismissed

Judgement

R.K. Merathia, J.—Heard counsel on both sides.

The appellant approached this Court with a writ petition (CWJC No. 5304 of 2001) challenging the order passed by the authorities under the Indian Forest Act confiscating his vehicle found to be involved in a forest offence. The confiscation was ordered u/s 52 of the Indian Forest Act after due enquiry and after giving the owner of the vehicle, the appellant, an opportunity to establish his case. The authority found that it was a case of illegal transport of forest produce coming within the purview of Section 52 of the Act and it was a fit case for passing an order for confiscation of the vehicle and the forest produce. Feeling aggrieved, the appellant filed an appeal. The appellate authority, on a reconsideration of the relevant materials and on hearing the appellant found no reason to interfere with the order of the original authority. Thus, the order of confiscation was confirmed and the appeal was dismissed. The appellant filed a revision under the Act challenging the decision of the appellate authority. The revisional authority on a further consideration of the relevant aspects came to the conclusion that the appellant had failed to prove his plea that the vehicle was

hijacked and no forest produce was transported. The revisional authority found no reason to interfere with the finding rendered by the original authority and the appellate authority. The Revision was dismissed. The appellant moved this Court invoking Article 226 of the Constitution of India. The learned Single Judge on a consideration of the relevant aspects, came to the conclusion that no ground was made out for interference under Article 226 of the Constitution. Thus the writ petition was dismissed.

2. Learned counsel for the appellant challenging the decision of the learned Single Judge submitted that it was not established that the appellant, the owner of the vehicle, had knowledge of the illegal transport of timber. This contention on behalf of the appellant cannot be accepted in the light of the finding of fact arrived at by the original authority as confirmed by the appellate authority and the revisional authority. Moreover, the burden was on the appellant in terms of Section 52(5) of the Act, as amended in the State, to establish that it was without his knowledge that the timber was transported. The appellant attempted to discharge that burden by setting up a case of hijacking of the vehicle by miscreants and the alleged collusion between those hijackers and the forest officials. The appellant could not establish that plea. Except showing that he had filed a belated complaint after the vehicle was seized by forest authorities, he could not adduce any evidence in support of his plea that the vehicle was hijacked and used for illegal transport of timber by the hijackers. In this situation, we cannot say that the learned Single Judge was not justified in refusing to interfere with the decision of the statutory authorities.

3. In this situation, we find it not possible to interfere with the decision of the learned Single Judge. We confirm the decision of the learned Single Judge and dismiss the appeal.