

(2012) 07 JH CK 0044

Jharkhand High Court

Case No: Writ Petition (C) No. 6817 of 2004

Bablu Nandi

APPELLANT

Vs

State of Jharkhand and
othersRESPONDENT

Date of Decision: July 17, 2012**Citation:** (2012) 2 EFLT 817**Hon'ble Judges:** Aparesh Kumar Singh, J**Bench:** Single Bench**Advocate:** Ashutosh Mishra, for the Appellant;**Final Decision:** Dismissed

Judgement

Aparesh Kumar Singh, J.

Heard learned Counsel for the parties. The petitioner has preferred this writ petition against the orders dated 3.12.2003/20.1.2004 passed by the Commissioner cum Secretary, Forest and Environment Department, Government of Jharkhand, Ranchi in Confiscation Revision No. (C)-19 of 2003, whereby and whereunder he dismissed the revision preferred by the petitioner against the order dated 27.11.2000/30.4.2001 passed in Confiscation Case No. 4/2000 by the Divisional Forest Officer, Dhalbhum, Jamshedpur and affirmed the order passed by the Deputy Commissioner, Singhbhum East, Jamshedpur dated 29.7.2002.

2. It is submitted by the learned Counsel for the petitioner that the petitioner is the owner of the passenger bus bearing registration No. BR 16A 9528, which was plying on Hatia-Tata road carrying passengers and the vehicle was driven by the driver and Khalasi employed by the petitioner.

3. The prosecution story is that on 24.3.2000 at 2.45 a.m. the Forest Patrolling Party led by the Range Officer of Forest, Mango directed to stop the bus but the driver of the said bus did not stop the bus and tried to run away with great speed. Thereafter the criminal boarding the bus started throwing planks of Gamhar and teak wood on the vehicle of the

patrolling party with an intention to stop the chasing but ultimately the vehicle was stopped by the patrolling party and the person, who was smuggling the forest produce was arrested and on search 74 pieces of wood of teak and gamhar were found, for which no valid documents could be produced by the said person.

4. It is submitted on behalf of the petitioner that thereafter the report was sent to the C.J.M. relating to seizure of 407 bus bearing registration No. BR 16A 9528 found involved in illegal transporting the forest produce and proceeding u/s 52(3) of the Indian Forest (Bihar Amendment) Act, 1989 was initiated, wherein the petitioner was noticed to appear and show cause. Thereafter the confiscating authority proceeded to pass an order in spite of the show cause furnished by the petitioner as contained in Annexure-2 to the writ petition by directing confiscation of the vehicle in question. The petitioner being aggrieved by the original order of confiscation, preferred Confiscation Appeal No. 22 of 2001-2002 before the Deputy Commissioner, Jamshedpur, who rejected the same vide order dated 29th July, 2002 (Annexure-3). The petitioner thereafter preferred a revision petition before the revisional authority taking the plea that the act in question was committed by his driver and khalasi without his knowledge and that the vehicle was being used as a passenger bus in which the passenger was allowed to load the said timber in question, for which the petitioner could not be made responsible. However, the learned revisional authority rejected the revision petition by the impugned order and being aggrieved by the same, the petitioner has moved this Court.

5. The respondents have appeared and filed their counter-affidavit, inter alia, justifying the impugned order by which the vehicle in question has been confiscated for being found indulging in the act/offence committed under the Indian Forest (Bihar Amendment) Act, 1989. It is submitted by the Counsel for the respondents that liability of the owner cannot be absolved when it is found that the driver and khalasi, employed by the owner, had allowed such activities prohibited under the Forest Act. Learned Counsel for the respondents submits that the whole purpose of the punishment provided under the Forest Act is in the nature of deterrent upon the perpetrators of the forest crime and it is the solemn duty of the State to give protection of the forest and environment. Learned Counsel for the respondents has relied upon a judgment of the Supreme Court in the case of [Mohd. Ashique Vs. State of Maharashtra](#), wherein by referring to the offences committed under the Forest Act, the relevant provision has been discussed in para 6 thereof wherein the case of [State of West Bengal and Others Vs. Sujit Kumar Rana](#), at para 19 and 20= [State of West Bengal and Others Vs. Sujit Kumar Rana](#), have also been quoted in the judgment and held that "the provisions for confiscation have been made as a deterrent object so that felling of trees and deforestation is not made."

6. Learned Counsel for the petitioner, however, relied upon a judgment of this Court in the case of Most. Dulla v. State of Jharkhand 2009 (1) AIR Jhar. R-515., in order to support his contention that the authorities were required to arrive at a finding that the owner had the knowledge of the offence committed by the driver and khalasi.

7. Having heard the learned Counsel for the parties and going through the records including the impugned orders, it appears that the charges are levelled against the petitioner under the Forest Act and confiscation proceedings were initiated by the Confiscating Authority. The original authority, the appellate authority and the revisional authority all have arrived at consistent findings of fact relating to the involvement of the vehicle in question being used for carrying illegal timber of wood and the vehicle was driven by in control of the driver and khalasi of the vehicle, who were admittedly employed by the petitioner himself, who have been found liable. In view of the provisions of the Indian Forest Act as also the ratio as has been laid in the judgment delivered by the Hon"ble Supreme Court of India, referred to herein-above, it would not be proper to interfere with the consistent findings of fact arrived at by the three authorities, as it does not suffer from any irrationality or perversity. In view of the aforesaid reasons, I am not inclined to interfere with the impugned orders. This writ petition is, accordingly, dismissed.