

Beni Yadav Vs. Forest

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Court : Jharkhand

Decided On : Feb-15-2017

Appellant : Beni Yadav

Respondent : Forest

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P. (C) No. 4191 of 2016 with W.P. (C) No. 4115 of 2016 with W.P. (C) No. 4193 of 2016 --- Beni Yadav --- ---- Petitioner [in all cases] Versus 1. The State of Jharkhand 2. The Principal Secretary - cum - Revision Authority, Forest, Environment and Climate Change Department, Government of Jharkhand 3. The Deputy Commissioner, Jamtara 4. The Divisional Forest Officer - cum - Authorized Officer, Jamtara 5. The Forest Range Officer, Jamtara --- --- Respondents [in all cases] --- CORAM: The Honble Mr. Justice Aparesh Kumar Singh For the Petitioner: Mr. Munna Lal Yadav, Advocate For the Resp - State: Mr. Navin Kr. Singh, JC to GA-III & JC to SC-IV --- 06/ 15.02.2017 Matters have been taken up on mentioning by the learned counsel for the petitioner with consent of the counsel for the Respondents.

2. In WPC No. 4191/2016, the order dated 11.01.2016 passed by the Revisional Authority cum Principal Secretary, Forest, Environment and Climate Change Department, Government of Jharkhand in Revision Case No. 131/2014, is under challenge, whereby the order dated 17.07.2014 passed by the Deputy Commissioner, Jamtara in Confiscation Forest Appeal Case No. 07/2013-14 has been set aside and the order of confiscation passed by the Authorized Officer -

cum - Divisional Forest Officer, Jamtara in Confiscation Case No. 04/2013 on 02.11.2013 has been confirmed.

3. In WPC No. 4115/2016, the order dated 11.01.2016 passed by the Revisional Authority cum Principal Secretary, Forest, Environment and Climate Change Department, Government of Jharkhand in Revision Case No. 133/2014 is under challenge, whereby the order dated 17.07.2014 passed by the Deputy Commissioner, Jamtara in Confiscation Forest Appeal Case No. 05/2013-14 has been set aside and the order of confiscation passed by the Authorized Officer - cum - Divisional Forest Officer, Jamtara in Confiscation Case No. 02/2013 on 09.09.2013 has been confirmed.

4. In WPC No. 4193/2016, the order dated 11.01.2016 passed by the Revisional 2. Authority cum Principal Secretary, Forest, Environment and Climate Change Department, Government of Jharkhand in Revision Petition No. 130/2014 is under challenge, whereby the order dated 17.07.2014 passed by the Deputy Commissioner, Jamtara in Confiscation Forest Appeal Case No. 06/2013-14 has been set aside and the order of confiscation passed by the Authorized Officer - cum - Divisional Forest Officer, Jamtara in Confiscation Case No. 03/2013 on 02.11.2013 has been confirmed.

5. Learned counsel for the petitioner submits that during the pendency of the writ applications, the subject matter of confiscation i.e. the vehicles in question being Truck Nos. HR-74-4794, OR-07Z-7362 and HR-46C-4148 which are alleged to have been seized carrying 306 bags of auriculiformis fruits, 281 bags of auriculiformis fruits and 243 bags of Acacia auriculiformis fruits respectively, would be rendered unfit for use if the same is not released pending adjudication to the challenge of order of confiscation passed by the Divisional Forest Officer cum Authorized Officer, Jamtara (Respondent No.

4) upheld in Revision by the Respondent No. 2 - Principal Secretary - cum - Revisional Authority, Forest, Environment and Climate change Department, Government of Jharkhand vide impugned orders dated 11.01.2016. However petitioner is ready to satisfy the conditions for its release by submitting adequate equivalent amount of security as quantified by the Confiscation Authority

(Respondent No.4).

6. Learned counsel for the petitioner has relied upon a judgment rendered by the Apex Court in the case of *Sunderbhai Ambalal Desai Vrs. State of Gujarat* reported in (2002) 10 SCC283. It is submitted that petitioner has good case on merits. He has succeeded before the Appellate Forum in the Confiscation Forest Appeal Case Nos. 07/2013-14, 05/2013-14 and 06/2013-14 which have been erroneously upturned by the Revisional Authority. Learned counsel for the petitioner submits that another vehicle of the same petitioner being Truck No. HR-46C-4113 3. was also confiscated for the same offence by the Respondent No. 4 - Divisional Forest Officer - cum - Authorized Officer, Jamtara. The Appellate Authority- Deputy Commissioner, Jamtara however, set aside the order of confiscation in Confiscation Forest Appeal Case No. 08/2013-14 which has been erroneously upturned by the Revisional Authority. Confiscation of the said vehicle is under challenge in WPC No. 2455/2016 wherein, this Court has been pleased to direct the Respondent No. 4 - Divisional Forest Officer - cum - Authorized Officer, Jamtara to consider the application of the petitioner for release on furnishing the equivalent value of the vehicle in question as security. Pursuant to the order dated 09.11.2016 truck in question has been released on furnishing the equivalent value of the vehicle as security. Therefore, petitioner has made a prayer for release of trucks in the instant cases also in similar manner.

7. Learned counsels for the Respondent State submits that if so directed, the Respondent no. 4 shall take a decision in this regard upon due consideration of the relevant material facts and the position of law rendered by the Apex Court.

8. Accordingly, petitioner is allowed liberty to move the Respondent No. 4 - Divisional Forest Officer cum Authorized Officer, Jamtara for release of the vehicles in question pending adjudication of the writ petitions. Petitioner would make an application before the Respondent No. 4 within ten days from today. Respondent No. 4 may, if satisfied with the plea of the petitioner, quantify the equivalent value of the vehicles in question for furnishing security for its release.

9. Needless to say that if the application of the petitioner finds favour and he submits the security for its release in the form and manner, so specified,

Respondent No. 4 would be entitled to release the vehicle pending adjudication of the main issue in the present writ applications. It goes without saying that if the writ petitions fail, Respondent No. 4 would be entitled to forfeit the security amount equivalent to the value of the vehicles under confiscation. Let such decision be taken on the application of the petitioner within four weeks from the date of receipt of 4. representation of the petitioner.

10. Accordingly, list these cases along with WPC No. 2455/2016 under the appropriate heading. (Aparesh Kumar Singh, J) Ranjeet/

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