

और तारीख

टिप्पणा तारीख
के साथ

**Court of the District Magistrate,
Saran at Chhápra**

Sanjay Munda & Others
Vrs.
State through Divisional Forest Officer, Saran
Miscellaneous Appeal No. 02/2012

ORDER

12/6/2012

This appeal has been filed against the confiscation order passed on 14.1.2012 in Confiscation case No. 02/2011 by the learned Authorized Officer-cum-Divisional Forest Officer (DFO), Saran Forest Division, Chapra.

By the impugned order the learned DFO not only confiscated the JCB vehicle No. JH01-AF-4469 u/s 52, Indian Forest Act, 1927, as ammended by Bihar Act 9 of 1990, but also ordered for the prosecution of the Appellant and two other persons u/s 33, Indian Forest Act, 1927, as ammended in the State of Bihar.

The case, in brief, is that on 28.11.2012, the Project Manager of M/S SADBHAV-GKC JV engaged by the Bihar State Road Development Corporation Ltd (BSRDC) informed the forest authorities that certain villagers were felling and removing trees and plants from protected forest situated along Chapra-Marhaura road. The above mentioned company was engaged in the works of pothole filling and road improvement under the contract executed with BSRDC. It is where the confiscated JCB vehicle was being used. The forest authorities reached the site on 28/11/2011 on receiving the intimation, but they actually seized the said JCB vehicle the next day from the camp office of

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Appellant and other persons engaged by the company to have incited the commission of the forest offences punishable u/s 23, Indian Forest Act, 1927. Later, the seized JCB vehicle was confiscated under the force of the impugned order.

Heard the appellant and learned Spl. P.P representing State on behalf of the DFO. Also perused the records, including the impugned order.

The Appellant has challenged the impugned order by pleading that neither the contractor company nor any person engaged it has committed, or aided the commission of, any forest offences. In fact, it was the company officer who informed the forest officials about the illegal felling and removal of trees and plants in the protected forest on the side of the road. The Appellant has further argued that the JCB vehicle itself has never been used in the commission of any forest offences, and instead of prosecuting persons responsible for illegal felling and removal of trees and plants, the learned DFO chose to confiscate the said vehicle and prosecute the company personnel without any reasons.

A perusal of the impugned order proves the fact that it was indeed the company manager who first informed the forest officer on 28/11/2011. It has also been held by the learned Authorized Officer that the illegal felling and removal of trees and plants was committed by villagers. The company officials have been held guilty of promoting and inciting the commission of forest offences. It is not at all clear what evidence was relied upon in holding the contractor company and its personnel guilty of inciting the local people. The natural question here is : why should the company officials inform the

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to fell and remove the trees and plants.

The JCB vehicle has been linked with felling of the trees but the impugned order itself mentions on page-3 that groups of local people, including women and children, were cutting the trees with axes and choppers. It is also inconsistent and mysterious why the said JCB vehicle was not seized on the spot. Instead, the machine was seized the next day from the camp office of the contractor company.

A complete examination of the impugned order fails to establish even a tenuous or remote link between the confiscated machine and the commission of the forest offences.

The plain fact is that the confiscated vehicle was on the highway site for road improvement works duly authorized by a state organization. There was absolutely no illegality about the presence of the vehicle on the site. It would be far-fetched and illogical to think that bona fide road repair works would incite people to commit forest offences. This assumption would simply stop all the road repair works. Even then, the company in question carried out its legal obligation by informing the forest officers about the commission of forest offences by strangers. Ironically, the forest authorities shifted the blame to the company. This is a typical case of an informant being turned into an accused. This is not only unfair and unjust but tends to divert the attention of the forest authorities from the actual offenders who must be identified and brought to law.

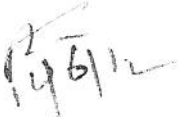
The seizure of JCB machine in question is certainly an afterthought. Otherwise, this should have been seized on the spot itself. Moreover, I do not find an iota of evidence which links the confiscated vehicle with illegal felling or removal of trees and plants.

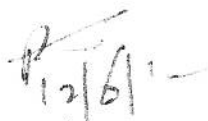
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order passed by the learned Authorized Officer-cum-DFO is unsustainable in the eye of law. Therefore, the appeal is allowed u/s 52 A, Indian Forest Act 1927, as ammended by Bihar Act 9 of 1990, and the confiscated vehicle JCB No. JH01-AF-4469 is ordered be released forthwith to the owner upon proper identification.

Send a copy of this order to SP, Saran, DFO, Saran and Officer-in-Charge, Khaira PS for necessary action.

Dictated and corrected


(Vinay Kumar)
District Magistrate
Saran, Chapra


(Vinay Kumar)
District Magistrate
Saran, Chapra

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