

11-200 3 ①  
SINGLE BENCH

IN THE HON'BLE CHHATTISGARH HIGH COURT  
AT BILASPUR

W.P.NO. 1897/2005 (S.B.)

PETITIONERS

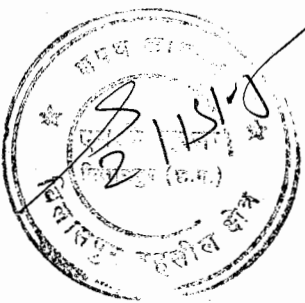
P.R. No. 1203  
Presented by Shri. Shashi Bhu Dey  
dated 21/03/08

- :1) Chandra Kumar Agrawal aged about 42 Years, S/o.Late Shri Bala Ram Agrawal, Agriculturist and Transporter,
- :2) Mohan, S/o. Dharmu Kenvat
- both** Residents of Village Paterapali, P.O. P/S and Tahsil Saraypali, District Mahasamund (C.G.)

Vs.

RESPONDENTS

- : 1) The State of Chhattisgarh, Through Secretary, Forest Department, DKS Bhavan, Mantralaya, Raipur (C.G.)
- : 2) The Appellate Authority-Cum-Conservator of Forest, Raipur Circle, Raipur (C.G.).
- : 3) Sub-Divisional Officer, Forest (General) and Authorized Authority, Forest Sub Division Saraypali, District Mahasamund (C.G.).



WRIT PETITION UNDER ARTICLES 226/227 OF  
THE CONSTITUTION OF INDIA.

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**HIGH COURT OF CHHATTISGARH : BILASPUR**  
**W.P. No.1597 of 2005**

**PETITIONERS**

Chandra Kumar Agrawal & another

Versus

**RESPONDENTS**

The State of Chhattisgarh & others

Post for pronouncement of orders on the 30<sup>th</sup> day of January, 2015

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Sd/-  
**Prashant Kumar Mishra**  
Judge



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G3/11/14

**HIGH COURT OF CHHATTISGARH : BILASPUR**

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Present :- Shri Shikhar Sharma, counsel for the petitioners.  
Shri Suresh Khakharia, Dy. AG for the State.  
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**ORDER**

(Passed on this ~~30th~~ <sup>30th</sup> day of January, 2015)

**Hon'ble Shri Justice Prashant Kumar Mishra**

1. In this writ petition under Article 226/227 of the Constitution of India, the petitioner has assailed the legality and validity of the order passed by the Sessions Court, vide Annexure P-1, the appellate order passed by the Conservator of Forest (Annexure P-2) and the original order passed by the Authorized Officer (Annexure P-3), whereby petitioner's tractor-trolley has been confiscated under Section 52 of the Indian Forest Act, 1927 (for short 'the Act, 1927') for being found involved in illegal transportation of forest produce in contravention of the provisions of the Chhattisgarh Van Upaj (Vyapar Viniyaman) Adhiniyam, 1969 (for short 'the Adhiniyam, 1969') and Chhattisgarh Van Upaj (Vyapar Viniyaman) Kastha Niyam, 1973 (for short 'the Niyam, 1973').
2. Facts of the matter, briefly stated, are that at about 13:50 hrs on 5-2-2001, SHO, Saraipali intercepted petitioner's tractor bearing No.MP-23 G8046 and trolley bearing No. MP-23 G8047 and caught red handed while transporting 24 pieces of Teak Sawn (Sagon Chiran). The Saraipali

police handed over the matter to the Authorized Officer on 8-2-2001 for drawing confiscation proceedings and thereafter the said officer registered forest offence on POR No.5741/08. Since during investigation of the matter the petitioner failed to produce any valid transport permit or permission authorizing him to transport the specified forest produce seized from him, a show-cause notice was issued for confiscation of the vehicle and the confiscation proceedings was drawn.

3. The authorized officer recorded statement of the witness produced by the Saraipali Police and the petitioner. According to the prosecution witnesses, when the tractor and trolley was intercepted and the driver was asked to produce papers for transporting the forest produce, he informed that the vehicle as well as the forest produce belongs to the petitioner. The driver escaped on way when he was being brought to the police station. In his statement before the authorized officer, the petitioner stated that his driver was taking the forest produce to a carpenter for manufacture of a door. The teakwood was purchased 3-4 years back from one Ganesh timber, whose original transport permit is with his driver Mohan Kewat.
4. The driver of the tractor-trolley was also examined by the petitioner. He stated that at the time of seizure, he was having two papers, one of green colour and the other of white colour. He further said that the papers were shown to the police, but they did not accept the same.
5. The authorized officer appreciated the evidence and concluded that the teakwood was transported without any valid transport permit and the driver's statement, who fled from the spot, that papers were shown but

were not accepted, is unbelievable. The authorized officer further observed that the seized teakwood was freshly cut from the forest and was not an old purchase, as put forth by the petitioner. It was also observed that the permit produced subsequently had also expired, as it was issued 3-4 years back and the petitioner was not entitled to transport the teakwood, which was otherwise not 3-4 years old but was freshly cut.

6. The authorized officer directed confiscation of the tractor-trolley and the said order has been affirmed by the appellate and revisional authorities. Thus, there is concurrent orders passed by three authorities, finding that the petitioner is guilty of violating the provisions contained in the Adhiniyam, 1969 and the Niyam, 1973 and thus, the tractor-trolley is liable for confiscation under Section 52 of the Act, 1927.
7. In the matter of **State of W. B. Vs. Gopal Sarkar** reported in **2002(1) SCC 495** the Hon'ble Supreme Court has held that order of confiscation would be justified if the authorized officer is satisfied about its use in commission of the offence.
8. In the matter of **State of West Bengal and another Vs. Mahua Sarkar** reported in **2008 (12) SCC 763** the Hon'ble Supreme Court has held that in proceedings for confiscation of the vehicle carrying illicit timber, the onus is on the owner of the vehicle to prove to the satisfaction of the authorized officer that the vehicle was used in carrying timber without his or his agent's knowledge or connivance and that all reasonable and necessary precaution against such use had been taken and further that the owner has to prove this on the basis of sufficient material and not on

the basis of mere assertion. In the said case the authorized officer had passed an order of confiscation and the District Judge dismissed the appeal preferred by the vehicle owner. The order was set-aside by the High Court by allowing the writ petition filed by the vehicle owner. The Hon'ble Supreme Court, while allowing the appeal, observed that the High Court erroneously allowed the writ petition filed by the vehicle owner without properly analyzing the position.

9. In the matter of *Khimji Vidhu Vs. Premier High School* reported in **1999 (9) SCC 264** the Hon'ble Supreme Court has held that in exercise of its power and jurisdiction under Article 227 of the Constitution of India the High Court may correct errors of jurisdiction and the like but not to upset pure findings of fact, which fall in the domain of an appellate Court only.
10. In the instant case also, there is concurrent finding by the three authorities that the vehicle was involved in transportation of illicit timber. There is no perversity in the finding recorded by the authorities.
11. For the foregoing, this Court does not find any substance in the writ petition, it fails and is hereby dismissed.

Sd/-  
**Prashant Kumar Mishra**  
Judge