

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (Criminal) No. 904 of 2018

Dilbag & others

.....Petitioners

Versus

State of Uttarakhand and others

....Respondents

Mr. Bhupesh Kandpal, Advocate for the petitioners.

Mr. Siddhartha Bisht, Brief Holder for the State of Uttarakhand.

Dated: 30.05.2018

Hon'ble V.K. Bist, J.

Petitioners have approached this Court seeking the following relief:

“(i) A writ, order or direction in the nature of mandamus directing the respondent to release the vehicle of the petitioner forthwith in the facts and circumstances of the case.”

2. It is submitted by the learned counsel for the petitioner that the petitioner no. 1 is the owner of the truck bearing registration no. UK04CB0958; petitioner no. 2 is the owner of the truck bearing registration no. UK06CK0019; petitioner no. 3 is the owner of the truck bearing registration no. UK 06CA1042 and petitioner no. 4 is the owner of the truck bearing registration no. UK06CA4193. It is stated that the said trucks of the petitioners were seized by the authority against the spirit of law and also against the mandates of the settled principle of law and further the challan was issued under Sections 194 & 207 of the Motor Vehicle Act.

3. Learned counsel for the petitioner further submitted that, in any case, the petitioner cannot be legally held responsible for the mining act for which no notice is given to him, as reflected in the challan. It is

also submitted that the petitioner has furnished challan/fee as mentioned.

4. It is submitted by the learned counsel for the petitioner that the vehicle should not be and cannot be withheld for the illegal mining, which has not been stated in the challan. This submission has some force. Naturally, petitioner cannot be held responsible for that offence, which is not mentioned in challan.

5. Learned Deputy Advocate General submitted that the vehicle has been challaned under Section 194 & 207 of the Motor Vehicle Act, therefore, the petitioner has an alternate remedy to approach the Competent Authority under Section 207 of the Motor Vehicle Act.

6. Considering this submission, petitioner is directed to approach the authority concerned under Section 207 of the Motor Vehicle Act and the Authority concerned is directed to take appropriate decision in the matter in accordance with law. In case, order is passed in favour of the petitioners for release of the vehicle, the vehicle shall be released after verifying the fact the petitioner is the owner of the same and said vehicle is not involved in any other offence.

7. The writ petition is disposed of accordingly.

8. Let a certified copy of this judgment be within 24 hours.

(V.K. Bist, J.)
30.05.2018