

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(C) No.5669 of 2023

Ishwar Chand Mahto, aged about 60 years, son of Late Ganesh Mahto, resident of Village-Chanaro (Parbad), P.O Charhi, P.S Charhi, District Hazaribag

.... **Petitioner**

-Versus-

1. The State of Jharkhand through the Secretary, Forest and Environment, Government of Jharkhand, Nepal House, P.O & P.S Doranda, District Ranchi
2. The Deputy Commissioner, Ramgarh, P.O & P.S. Ramgarh, District Ramgarh
3. The Authorized Officer-cum-Divisional Forest Officer, Ramgarh Forest Division, P.O & P.S. Ramgarh, District Ramgarh

.... **Respondents**

CORAM: HON'BLE MR. JUSTICE RAJESH KUMAR

For the Petitioner

: Mr. Sanjay Kr. Pandey, Advocate

For the State

: Mr. Vineet Prakash, AC to SC-IV

11/Dated: 21st January, 2026

1. Heard the parties.
2. The present writ petition has been filed for following reliefs:-

“(a) for issuance of writ in the nature of certiorari for quashing of order dated 05.09.2016 passed by the Authorized Officer cum Divisional Forest Officer, Ramgarh Forest Division in Confiscation Case No.17/2015 whereby and whereunder learned Authorized Officer-cum-Divisional Forest Officer, Ramgarh Forest Division has illegally confiscated the truck of petitioner bearing No.JH-02Z-8774 along with 20 tonnes of soft Coal loaded on it.

(b) for quashing of by order dated 07.12.2018 passed by Deputy commissioner-cum-District Magistrate, Ramgarh in Confiscation Appeal No.50/2016 whereby and whereunder, learned Deputy Commissioner-cum-District Magistrate, Ramgarh has dismissed the appeal of petitioner in a cryptic and unreasoned order.

(c) for direction upon the concerned respondent to release the truck of petitioner bearing no.JH-02Z-8774 seized in connection with Mandu P.S. Case No. 55/2015.”

3. The brief facts of the case are as follows:-

- (i)** The petitioner is an owner of the Truck bearing Registration No.JH02Z-8774.
- (ii)** The truck of the petitioner was seized by the Mandu Police Station in connection with Mandu P.S. Case No.55 of 2015 registered under Sections 414/34 of the Indian Penal Code, Section 30(ii) of the Coal Mines Act and under Section 33 of the Indian Forest Act.
- (iii)** The truck of the petitioner was searched and 20 tonnes of soft coal was seized by Mandu Police.
- (iv)** Confiscation order has been passed by Authorized Officer-cum-DFO, Ramgarh, Forest Division Ramgarh in Confiscation Case No.17 of 2015, vide order dated 05.09.2016.
- (v)** The petitioner preferred an appeal before the Deputy Commissioner-cum-District Magistrate, Ramgarh vide Confiscation Appeal No.50 of 2016 which has been dismissed, vide order dated 07.12.2018.
- (vi)** The petitioner has already been acquitted from the charges vide order dated 21.12.2022 by the court of learned S.D.J.M, Ramgarh in Mandu P.S. Case No.55 of 2015, corresponding to G.R. Case No.435 of 2015.

4. It has been argued by he learned counsel for the petitioner that it is settled law that a criminal case and the confiscation case are two different proceedings and both are not dependent upon each other, but, the onus lies upon the confiscating authority to bring on record sufficient material to suggest that forest offence has been committed. In the present case, referring to the order of the original authority, it has been submitted that the onus has been shifted upon the present petitioner which is otherwise wrong procedure. The basis has been taken that the police after investigation has submitted the charge-

sheet under Section 33 of the Indian Forest Act, in which, the petitioner has already been acquitted.

5. On the strength of the above arguments, it has been submitted by the learned counsel for the petitioner that the impugned orders are bad in law because there is no sufficient materials and also for the reason that it has been proceeded with the wrong presumption that the onus lies upon the petitioner to prove that he has not committed any forest offence.

6. Learned counsel for the State has supported the order of confiscation but could not point out any material to suggest that the seized soft coal (processed) has been mined from any forest area, save and except suspicion shown by the confiscating authority on the strength that the truck in question has been seized from nearby the forest area. It has further been submitted that although an opportunity has been given to the petitioner to produce the valid documents, but the said documents have not been found to be genuine.

7. Having heard the learned counsel for the parties and upon perusal of the records, the following facts emerge:

(i) The seized coal is soft coal which is a processed form of coal and therefore, its immediate mining is not possible.

(ii) There is no material on record to suggest that the seized coal originated from any forest area.

(iii) The prosecution, instead of discharging its onus, has shifted the onus upon the petitioner which is unknown to law as the onus lies upon the prosecution to prove that the mining has been done in the forest area.

8. In view of the above discussion, this Court finds that the impugned orders are bad in law as there is no material to justify the finding that the coal in question has been mined from forest area. Accordingly, the order 05.09.2016

passed by the Authorized Officer-cum-Divisional Forest Officer, Ramgarh Forest Division in Confiscation Case No.17 of 2015 and the order dated 07.12.2018 passed by the Deputy Commissioner-cum-District Magistrate, Ramgarh in Confiscation Appeal No.50 of 2016 are hereby, quashed and set-aside.

9. The present writ petition stands allowed and accordingly, disposed of.

10. The concerned respondents are directed to release the vehicle in question immediately.

(Rajesh Kumar, J.)

Dated 21st January, 2026
Raja/-Uploaded on 30.01.2026