

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(C) No.5670 of 2023

Ishwar Chand Mahto @ Ishwar Chandra 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 10.09.2016 passed by the Authorized Officer-cum-Divisional Forest Officer, Ramgarh Forest Division in Confiscation Case No.52/2015 whereby and whereunder learned Authorized Officer-cum-Divisional Forest Officer, Ramgarh Forest Division, Ramgarh has illegally confiscated the truck of petitioner bearing No.JH-02AA-3513 along with 18 tonnes of soft Coal loaded on it.

(b) for quashing of order dated 07.12.2018 passed by Deputy commissioner-cum-District Magistrate, Ramgarh in Confiscation Appeal No.51/2016 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 for concerned respondent to release the truck of the petitioner bearing no.JH-02AA-3513 which has been seized in connection with Mandu (Kujju) P.S. Case No. 153/2015, corresponding to G.R No.1365/2015.”

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

- (i) The petitioner is the owner of the truck bearing Registration No.JH02AA-3513.
- (ii) The vehicle of the petitioner was loaded with 18 tonnes of coal allegedly excavated from forest area and converting the same into pora coal for sale.
- (iii) The aforesaid truck was seized by the Mandu Police and thereafter, Mandu (Kujju) P.S. Case No.153 of 2015 was instituted and the case was registered under Sections 379/411/34/120B of the Indian Penal Code, Section 30(ii) of the Coal Mines Act and under Section 33 of the Indian Forest Act.
- (iv) The police, after investigation, has submitted the charge-sheet under Section 379, 411, 34/120-B of the Indian Police Code, Section 30 of Coal Mines Act and Section 33 of the Indian Forest Act.
- (v) The confiscation proceeding of vehicle as well as coal was started by the Authorized Officer-cum-Divisional Forest Officer, Forest Division, Ramgarh. The order of confiscation of vehicle and coal was passed in Confiscation Case No.52 of 2015, vide order dated 10.09.2016.
- (vi) Against the order of confiscation, the petitioner had preferred an appeal being Confiscation Appeal Case No.51/2016 before the Deputy Commissioner-cum-District Magistrate, Ramgarh which was dismissed, vide order dated 07.12.2018.
- (vii) The petitioner's son namely, Munna Mahto, apprehended with confiscated truck has been acquitted by the court of the learned Judicial Magistrate, 1st Class, Ramgarh in Mandu P.S. Case No.153 of 2015, corresponding to G.R No.1365 of 2015, vide judgment dated 24.06.2022.
- (viii) The petitioner has been acquitted by the Court of SDJM, Ramgarh in Mandu P.S. Case No.55 of 2015 (G.R Case No.435 of 2015) as the prosecution failed to connect the petitioner with the alleged offence.

4. It has been argued by the learned counsel for the petitioner that it is a 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 materials to suggest that the 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 a wrong procedure. The basis has been taken that the police after investigation has submitted 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 as because there is no sufficient materials and also for the reason that it has been proceeded with the wrong presumption that 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 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 same 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 the forest area. Accordingly, the order dated 10.09.2016 passed by the Authorized Officer-cum-Divisional Forest Officer, Ramgarh Forest Division, Ramgarh in Confiscation Case No.52 of 2015 and the order dated 07.12.2018 passed by the Deputy Commissioner-cum-District Magistrate, Ramgarh in Confiscation Appeal No.51 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