

**IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(Cr.) No.340 of 2024**

Shahid Ansari

..... **Petitioner**

Versus

1. The State of Jharkhand.
2. The Deputy Commissioner cum District Magistrate, Latehar
3. Officer-in-Charge, Balumath Police Station, Latehar
4. District Mine Officer, Latehar **Respondents**

CORAM: HON'BLE MR. JUSTICE RAJESH KUMAR

For the Petitioner : Mr. Shadab Eqbal, Advocate
Mr. Anshuman Om, Advocate
Mr. Haroon Rasheed, Advocate
For the State : Ms. Rishi Bharati, A.C to A.A.G.-III

03/Dated: 09th May, 2024

1. The present criminal writ petition has been filed for the following reliefs :-

(a) for quashing the order dated 08/07/2023 whereby and whereunder the Deputy commissioner Latehar vide Confiscation Case no.57/2023 has been pleased to pass order for confiscating the Commercial vehicle bearing number JH08C-6391 of the petitioner illegally, without jurisdiction as prescribed under section 21 (4A) of the MMDR Act. (Annexure -5)

(b) for issuance of direction upon the respondent to release the Commercial vehicle bearing number JH08C-6391, which was ordered to be released by the pleasure of Ld. C.J.M., Latehar Vide order dated 04.05.2023 in connection with Balumath P.S Case No. 44/2023 which is pending in the court of Ld. Chief Judicial Magistrate, Latehar. The Ld. D.C Latehar has initiated confiscation process against the principle of M.M.D.R Act.

2. It appears that a criminal case has been lodged being Balumath P.S. Case No.44 of 2023, registered for the offence under Sections 379/ 414/ 411 of the Indian Penal Code and Section 30 (ii) of the Coal Mines Act, Section 21(4)/ (4A)/ (5) of the M.M.D.R. Act, Rule 13 of the Jharkhand Minerals

(Prevention of Illegal Mining Transportation and storage) Rules, 2017, pending in the court of learned Chief Judicial Magistrate, Latehar.

3. It has been submitted by the learned counsel for the petitioner that the petitioner is the *bonafide* owner of the vehicle, in question, bearing registration JH08C-6391, which has been seized by the police. It has further been submitted that the said vehicle was never involved in any illegal activity. It has further been submitted that the order of confiscation has been passed by the respondent No.02, i.e., the Deputy Commissioner -cum- District Magistrate, Latehar vide order dated 08.07.2023 passed in Confiscation Case No.57 of 2023 (Annexure -5), which is not as per the law and no such power is vested to the Deputy Commissioner -cum- District Magistrate.

4. Learned counsel for the petitioner has also submitted that as per the mandate of Section 21(4-A) of the Mines and Minerals (Development & Regulations) Act, 1957, only the criminal court taking cognizance of the offence is competent to pass the order of confiscation and the Deputy Commissioner -cum- District Magistrate has no such power. In support of his contention, learned counsel for the petitioner has relied upon the judgment dated 08.01.2024, passed in W.P.(Cr.) No.751 of 2023, by this Court and has submitted that the said issue has already been settled by this Court.

5. Considering the fact that the Deputy Commissioner -cum- District Magistrate is not a competent authority to pass the order of confiscation. Accordingly, the order dated 08.07.2023, passed by the Deputy Commissioner -cum- District Magistrate, Latehar in Confiscation Case No.57 of 2023 in connection with Balumath P.S. Case No.44 of 2023 is, hereby, quashed and set-aside.

6. The petitioner is at liberty to approach the learned court below for release of the vehicle. If any such application is filed, then the court below is directed to consider the same on its own merit and shall take a decision as early as possible.

7. With the above observation and direction, the present criminal writ petition stands disposed of.

(Rajesh Kumar, J.)

Chandan/-