



उपायुक्त-सह-जिलादण्डाधिकारी का न्यायालय, गिरिडीह।

(Email id- dccourt.grd@gmail.com)

Confiscation Appeal Case No. 04/2021

Ravindra Kumar Gupta vs State (DFO Giridih East)

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ORDER

02.12.24 This case has been initiated on the appeal made against Confiscation Order of Divisional Forest Officer (DFO), Giridih East Forest Division cum Authorized Officer in Confiscation Case No.42/2020 State vs Ravindra Kumar Gupta and Vinod Kumar Verma in which the learned DFO has ordered for confiscation of (i) Tractor Registration No.JH-11Y-1793, Trailer No.JH-11Y-0202, (ii) John Deere-5039D Tractor Registration No.JH-11P-8670, Trailer No.BR-23A-0993, (iii) Tractor Registration No.JH-11T-0685, Trailer No.JH-11T-8428 and stones loaded over them.

The Appellant claims that the stones were collected for his personal use from raiyati land of Plot No.898, Khata no.46, Thana no.36 of Mouza- Bhandaro but not from forest land. And that it has been investigated and verified by the Forest Range Officer himself and found out that there was no sign/ spot of mining within the forest area. And that there was material and evidence to come to the conclusion that the alleged place of occurrence as notified forest area within the meaning/ definition and legal provision constituted under the Indian Forest Act. And that the tractors and trailers being commercial vehicles purchased through finance and loan, could not be confiscated for want of relevant materials. And that DFO Giridih East in his impugned order has cited that Bhandaro Forest is protected forest area according to State Government

15.

Notification no. C/F 17066/54-3416R, Dated-11.08.1954. And that DFO has observed that the alleged place of occurrence is notified as protected forest area under the aforesaid notification. And that the aforesaid notification has lost its force and existence on expiry of thirty years from the date of notification. And that the aforesaid notification has lost its force, existence and operation on 11.08.1984, the alleged date of occurrence is 11.08.2020. And that no further notification was issued by the State Government. And that there was nothing before DFO Giridih East to show that any further notification had been issued in terms of Section 30 (b) of Indian Forest Act. Therefore the land in question in Bhandaro could not and cannot be held to be forest land under Indian Forest Act and no offence can be said to have been committed under the provisions of Indian Forest Act. The Appellant has submitted citation of Hon'ble High Court of Jharkhand: Cri. M.P. No.136 of 2011 Anup Kumar vs State of Jharkhand where the Hon'ble Court has observed that "nothing is there to show that after expiry of 30 years, any further notification has been made in terms of Section 30(b) of Indian Forest Act. Under the situation, one is constrained to hold that the land can never be taken to be the forest land in absence of any other notification".

From the perusal of case record of Divisional Forest Officer (DFO), Giridih East Forest Division cum Authorized Officer, it is observed that DFO Giridih East in his case proceedings has concluded that the stones loaded in seized vehicles were illegally collected from Bhandaro Protected Forest, Thana- Dumri, Thana No.36, Plot No.898 and were being transported. And that it is clear violation of Section 33(1)(b) of Indian Forest Act, 1927 and it is cognizable and non-bailable forest offence. And that it invokes the conditions/ provisions given under Section 52 of Indian Forest Act (Bihar Amendment Act 1989), thus the seized vehicles and stones loaded over them are liable to be confiscated. The

95.

representative of DFO Giridih East claims that the protected forest continues to exist as protected forest submitting citation of Order of Hon'ble High Court in A.B.A. No.4488 of 2013 that *"the maximum life of the notification has been fixed only if the same has been issued under Section 30 (b) of the Indian Forest Act. Maximum life of the notification has not been fixed if the same has been issued for the purpose mentioned in Section 30 (a) & (c)"*. The representative of DFO Giridih East submits that notification of Bhandaro Protected Forest was issued for the purposes mentioned under Section 30 (a) & (c) of Indian Forest Act.

He also submits a citation mentioning that as per *Section 2 of The Forest (Conservation) Act, 1980: Restriction on the dereservation of forests or use of forest land for non-forest purpose- "Notwithstanding anything contained in any other law for the time being in force in a State, no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing-*

(i) that any reserved forest (within the meaning of the expression "reserved forest" in any law for the time being in force in that State) or any portion thereof, shall cease to be reserved;

(ii) that any forest land or any portion thereof may be used for any non-forest purpose."

The representative of DFO Giridih East submits that dereservation of Bhandaro Protected Forest has never been done. And that there is no document available regarding any dereservation done pertaining to Bhandaro Protected Forest.

Heard the Ld. Advocate of the Appellant, Representative of DFO Giridih East as well as the Ld. APP on various points as mentioned in the petition of the appellant, documents/ citations submitted by representative of DFO Giridih East and Case Record. On account of the aforementioned points, on perusal/ examination of the various documents available on record, points and

94

arguments submitted/ given by Ld. Advocate of the Appellant, opinion/ argument of Ld. APP and representative of DFO Giridih East, the court comes to the conclusion that the Appellant has committed violation of Section 52 of Indian Forest Act 1927 (Bihar Amendment Act 1989). Thus the appeal of the appellant is rejected. Divisional Forest Officer (DFO) Giridih East Forest Division is directed to proceed further as per the order given in the Confiscation Case.

Let a copy of this order be provided to all concerned. Due to busy schedule in law and order and other administrative work this order is passed today.

Dictated and Corrected by me

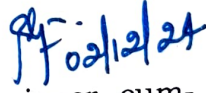

Deputy Commissioner- cum-
District Magistrate,
Giridih


Deputy Commissioner- cum-
District Magistrate,
Giridih

Memo No. ...935, Date 02/12/2024

Copy to: Divisional Forest Officer (DFO), Giridih East Forest Division for information and necessary action


Deputy Commissioner- cum-
District Magistrate,
Giridih


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District Magistrate,
Giridih