

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.34 of 2026
In
Civil Writ Jurisdiction Case No.5456 of 2020

1. The State of Bihar through the Additional Chief Secretary, Department of Environment, Forest and Climate Change, Govt. of Bihar, Patna.
2. The District Magistrate, Rohtas at Sasaram.
3. The Superintendent of Police, Rohtas at Sasaram.
4. The Divisional Forest Officer-cum-Authorized Officer, Rohtas Forest Division, Rohtas at Sasaram.
5. Pradyumn Gaurav, the then DFO, Rohtas Forest Division at Sasaram

... .. Appellants

Versus

Deepak Kumar alias Deepak Kumar Singh, S/o Lallan Singh, Resident of Mohalla - Subhash Nagar, P.S. - Dehri, District- Rohtas.

... .. Respondent

Appearance :

For the Appellants : Mr. Anant Prasad Singh, S.C.-15
Mr. Mithilesh Kumar Singh, A.C. to S.C.-15
For the Respondent : Mr. Sanjay Kumar Tiwary, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 02-04-2026

This Letters Patent Appeal has been filed by the State of Bihar challenging the order dated 12.01.2026 passed by the learned Single Judge in C.W.J.C. No. 5456 of 2020.

The aforesaid writ petition was filed by one Deepak Kumar @ Deepak Kumar Singh for quashing the order dated 30.10.2019 passed in Forest Revision Case No. 17 of 2018 by the Principal Secretary of Environment, Forest and Climate



Change Department, Bihar, Patna by which the revision case was dismissed and the order dated 14.11.2017 passed by the District Magistrate, Rohtas at Sasaram in Forest Confiscation Appeal No. 15 of 2016 was affirmed, so also the order dated 23.12.2015 passed by the Divisional Forest Officer-cum-Authorised Officer, Rohtas at Sasaram in Confiscation Case No. 127 of 2015.

2. After issuance of notice, counter affidavit was filed by Respondent No.1, i.e., the Principal Secretary, Forest Department, Government of Bihar, Patna and supplementary affidavit as well as counter affidavit filed by the Respondent No.1, was also responded by the petitioner/respondent.

Similarly, counter affidavit was also filed by Respondent No.4, the Assistant Conservator of Forest Division, Rohtas at Sasaram, and one Pradyumn Gaurav, who was subsequently arrayed as Respondent No.5, also filed an affidavit.

When the matter was taken up on 12.01.2026, the learned Single Judge has been pleased to pass the impugned order in observing that the then Divisional Forest Officer, Sasaram should not continue at a responsible post of Divisional Forest Officer, Ara, and the Additional Chief Secretary,



Department of Environment, Forest and Climate Change was directed to transfer the said officer to the Headquarters during the pendency of the case.

3. The contention of the learned counsel for the Appellants-State is that the vehicle in question, a truck/hyva bearing Registration No. JH-09Q-1483, belonging to the writ petitioner was seized on 18.06.2015 on the purported charge of carrying stone chips, without valid challan, leading to seizure of the vehicle; consequently, confiscation proceeding was initiated vide Confiscation Case No. 127 of 2015 and notice was issued to the petitioner/respondent and ultimately on 23.12.2015, confiscation order was passed, whereby, the said hyva was directed to be confiscated. The writ petitioner, challenging the confiscation order, preferred Forest Confiscation Appeal No. 15 of 2016. The Appellate Authority rejected the appeal, and then he preferred a revision vide Forest Revision Case No. 17 of 2018, which was also dismissed by the Revisional Authority. Challenging the confiscation order as well as the orders of the Appellate Authority and Revisional Authority, the petitioner approached this Court by filing C.W.J.C. No. 5456 of 2020, out of which this Letters Patent Appeal arises.

4. It is the further contention of the learned counsel



for the State that during pendency of the writ petition, public auction was held for selling the seized vehicles including the vehicle of the writ petitioner, and accordingly it was sold. However, no stay order was granted by the learned Single Judge after filing of the writ petition till the vehicle was sold by way of public auction and moreover, the auction sale notice was not challenged by the writ petitioner.

5. The further contention of the learned counsel for the State is that Pradyumn Gaurav was not the D.F.O. when the confiscation order was passed on 23.12.2015 by his predecessor and Pradyumn Gaurav joined as D.F.O., Rohtas only on 22.07.2019. It is contended that the nature of order that has been passed by the learned Single Judge was not justified as the power of transfer and posting of a public servant is within the exclusive domain of the Executive. The employer has to post/transfer a public servant from one place to the other depending upon the administrative exigencies. The Court should not assume such role, otherwise there would be a complete chaos in the administration which would not be conducive in the public interest.

6. The learned counsel for the respondent submitted that when the auction sale was held, the respondent was not



noticed.

7. Whether the respondent was noticed or not noticed, is not the subject matter of dispute in this Letters Patent Appeal. Admittedly, the auction sale notice has not been challenged by the respondent. It is also not in dispute that no stay order has been passed by the learned Single Judge after filing of the writ petition till the vehicle was sold by way of public auction. Before three forums, the writ petitioner has lost his case and therefore, if the vehicle was put to auction sale and ultimately sold, no fault can be found with the concerned authority. Moreover, the person who was the Divisional Forest Officer at the relevant point of time when the confiscation order was passed was not Pradyumn Gaurav, who joined as D.F.O., Rohtas only on 22.07.2019. In such a situation, the observation of the learned Single Judge in directing transfer of a D.F.O. to the Headquarters assuming the role of an employer was not proper and justified.

Transfer of a Government servant is an incident of service and it is generally a condition of service and an employee has no choice in the matter. It is entirely for the employer to decide when, where and at what point of time, a public servant is to be transferred from his present posting. Thus



the transfer and posting of Government servant lie within exclusive domain of the Government and the Court should not assume the role of an employer. Transfer of a public servant is made on administrative ground or in public interest. Unless the transfer order is illegal on the ground of violation of statutory rules or on the ground of *mala fide* or there are strong and pressing grounds, it is not to be interfered with. If the Courts continue to interfere with day-to-day transfer orders issued by the Government, there will be complete chaos in the administration which would not be conducive to public interest.

We are of the humble view that the learned Single Judge grossly erred in directing the transfer of the D.F.O. in exercise of its jurisdiction under Article 226 of the Constitution of India.

There was absolutely no justification on the part of the learned Single Judge to pass the impugned order dated 12.01.2026 and the order suffers from perversity.

8. In the result, the impugned order dated 12.01.2026 to the extent that the Divisional Forest Officer, Sasaram should not continue at a responsible post of Divisional Forest Officer, Ara and the Additional Chief Secretary, Department of Environment, Forest and Climate Change to transfer the said



officer to the Headquarters, stands quashed.

9. Accordingly, the Letters Patent Appeal is allowed to the extent as indicated above.

10. Interlocutory Application(s), if any, shall also stand disposed of.

(Sangam Kumar Sahoo, CJ)

(Harish Kumar, J)

P.K.P./-

AFR/NAFR	AFR
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