2026:AHC:228068

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 22141 of 2026

Tej Prakash

.....Petitioner(s)

Versus

State Of Uttar Pradesh And 4 Others

.....Respondent(s)

Counsel for Petitioner(s) : Ashish Jaiswal, Sushil Kumar Mishra
Counsel for Respondent(s) : G.A.

Court No. - 78

HON'BLE SANDEEP JAIN, J.

1. Rejoinder affidavit filed on behalf of the petitioner is taken on record.

2. The instant writ petition under Article 226 of the Constitution of India has been filed for the following reliefs:

"(i) issue suitable writ, order or direction in the nature of certiorari quashing the impugned order dated 21.05.2026 (Annexure No. 1) passed by the Commissioner, Vindhyachal Division, District Mirzapur in Appeal no. 2345 of 2025 (Tej Prakash Vs. District Magistrate Mirzapur and others) under section 5-A (8) of The U.P. Prevention of Cow Slaughter Act, 1955 as well the order dated 22.11.2024 (Annexure No. 2) passed by the District Magistrate Mirzapur in case no. 1425 of 2023.

(ii) issue suitable writ order or direction in the nature of mandamus directing to respondent authorities to release the seized DCM Vehicle No. UP-50-CT-4205 in favor of petitioner."

3. The factual matrix of the case is that the petitioner is the registered owner of a DCM Eicher vehicle bearing Registration No.UP-50-CT-4205, which is used for the transportation of goods. The aforesaid vehicle was allegedly seized by the police personnel of Police Station Vindhyachal, District Mirzapur, on 18.09.2023, while transporting two bullocks, allegedly for the purpose of slaughter, to the State of West Bengal. In this regard, an F.I.R. was registered on 18.09.2023, being Case Crime No.165 of 2023, under Sections 3/5-A/8 of the Uttar Pradesh Prevention of Cow Slaughter Act, 1955 (hereinafter referred to as the 'Act of 1955'), Section 11 of the Prevention of Cruelty to Animals Act, 1960 and Sections 419 and 420 I.P.C. at Police Station Vindhyachal, District Mirzapur.

4. Since the two bullocks were allegedly being transported in the

petitioner's vehicle in contravention of the provisions of the Act, 1955, confiscation proceedings in respect of the said vehicle were initiated by the District Magistrate, Mirzapur. However, the petitioner failed to appear in the said proceedings. Upon consideration of the material available on record, the District Magistrate recorded a finding that two bullocks had been found in the petitioner's vehicle, which were being transported in a cruel manner. It was further held that petitioner's vehicle is being used for smuggling animals for illegal gains. Consequently, in exercise of the powers conferred under the Act, 1955, the District Magistrate, Mirzapur, vide order dated 22.11.2024, directed confiscation of the vehicle in favour of the State.

5. The aforesaid order was challenged by the petitioner by filing an appeal before the Commissioner, Vindhyachal Division, Mirzapur, which was also dismissed vide order dated 21.05.2026. The appellate authority recorded a finding that ten cows and their progeny were being illegally transported in the petitioner's vehicle, in contravention of the provisions of the Act, 1955, and consequently affirmed the order passed by the District Magistrate, Mirzapur. Both the aforesaid orders have been impugned in the instant writ petition.

6. Learned counsel for the petitioner submits that only two bullocks were found in the petitioner's vehicle, which was illegally seized by the police personnel of Police Station Vindhyachal, District Mirzapur. He further submits that there is no evidence on record to establish that the aforesaid animals were being transported to the State of West Bengal for the purpose of slaughter. The vehicle of the petitioner has been confiscated merely on the basis of presumptions and conjectures, without there being any cogent evidence to establish the alleged transportation of the animals for slaughter.

7. Learned counsel further submits that there is no evidence to establish that any cruelty was inflicted upon the aforesaid animals during transportation. Thus, no ground was available under the Act, 1955, for confiscation of the petitioner's vehicle; nevertheless, the authorities have proceeded to confiscate the same in an arbitrary and illegal manner.

8. It is further submitted that the vehicle in question is a transport vehicle

which was being used by the petitioner for the transportation of goods and for earning his livelihood. Its illegal confiscation has caused immense hardship and financial loss to the petitioner, who has been deprived of his source of livelihood. Such deprivation of the petitioner's property, without authority of law, amounts to a violation of his fundamental rights guaranteed under the Constitution of India, thereby entitling him to reasonable compensation.

9. Learned counsel further submits that the vehicle was purchased by the petitioner by obtaining a loan from Magma Fincorp Limited(now Poonawalla Fincorp Limited), against which he was paying monthly instalments of Rs. 27,709/-. However, on account of the confiscation of the vehicle by the State authorities, the petitioner was deprived of the opportunity to earn from the said vehicle and, consequently, could not pay the loan instalments in time. As a result, penal interest was also levied upon him. It is, therefore, submitted that, apart from the illegality of the confiscation proceedings, the petitioner is also entitled to reasonable compensation and damages for the loss suffered by him on account of the arbitrary and illegal action of the State authorities.

10. Per contra, learned A.G.A. has defended the orders passed by the authorities below by submitting that two bullocks were found in the petitioner's vehicle which were being illegally transported to the State of West Bengal for slaughter and for unlawful gain, which amounts to a clear contravention of the provisions of the Act, 1955. Therefore, according to learned A.G.A., the vehicle of the petitioner has rightly been confiscated in favour of the State.

11. I have heard learned counsel for the parties and have also perused the case diary of Case Crime No.165 of 2023, Police Station Vindhyachal, District Mirzapur, produced by learned A.G.A.

12. In order to appreciate the rival submissions advanced by the learned counsel for the parties, it would be appropriate to first examine the relevant statutory provisions governing the controversy.

13. Accordingly, Sections 5, 5-A and 5-B of the Uttar Pradesh Prevention of Cow Slaughter Act, 1955 read with Rule 16 of the Uttar Pradesh

Prevention of Cow Slaughter Rules, 1964 are being reproduced hereinafter:

*"**5. Prohibition on sale of beef.-** Except as herein excepted and notwithstanding anything contained in any other law for the time being in force, no person shall sell or transport or offer for sale or transport or cause to be sold or transported beef or beef products in any form except for such medicinal purposes as may be prescribed.*

Exception-A person may sell and serve or cause to be sold and served beef or beef-products for consumption by a bonafide passenger in an air-craft or railway train.

*"**5-A.Regulation on transport of cow, etc.-**(1) No person shall transport or offer for transport or cause to be transported any cow, or bull or bullock, the slaughter whereof in any place in Uttar Pradesh is punishable under this Act from any place within the State to any place outside the State, except under a permit issued by an officer authorized by the State Government in this behalf by notified order and except in accordance with the terms and conditions of such permit.*

(2) Such officer shall issue the permit on payment of such fee not exceeding [five hundred rupees] for every cow, bull or bullock as may be prescribed :

Provided that no fee shall be chargeable where the permit is for transport of the cow, bull or bullock for a limited period not exceeding six months as may be specified in the permit.

(3) Where the person transporting a cow, bull or bullock on a permit for a limited period does not bring back such cow, bull or bullock into the State within the period specified in the permit, he shall be deemed to have contravened the provision of sub-section (1).

(4) The form of permit, the form of application therefor and the procedure for disposal of such application shall be such as may be prescribed.

(5) The State Government or any officer authorized by it in this behalf by general or special notified order, may, at any time for the purpose of satisfying itself or himself, as to the legality or propriety of the action taken under this section, call for and examine the record of any case and pass such orders thereon as it or he may deem fit.]

[(6) Where the said conveyance has been confirmed to be related to beef by the competent authority or authorised laboratary under this Act, the driver, operator and owner related to transport, shall be charged with the offence under this Act, unless it

is not proved that transport medium used in crime, despite all its precautions and without its knowledge, has been used by some other person for causing the offence.

(7) The vehicle by which the beef or cow and its progeny is transported in violation of the provisions of this Act and the relevant rules, shall be confiscated and seized by the law enforcement officers. The concerned District Magistrate/Commissioner of Police will do all proceedings of confiscation and release, as the case may be.

(8) The cow and its progeny or the beef transported by the seized vehicle shall also be confiscated and seized by the law enforcement officers. The concerned District Magistrate/Commissioner will do all proceedings of the confiscation and release, as the case may be.

(9) The expenditure on the maintenance of the seized cows and its progeny shall be recovered from the accused for a period of one year or till the release of the cow and it's progeny in favour of the owner thereof whichever is earlier.

(10) Where a person is prosecuted for committing abetting, or attempting to an offence under section 3, 5 and 8 of this Act and the beef or cow-remains in the possession of accused has been proved by the prosecution and transported things are confirmed to be beef by the competent authority or authorized laboratory, then the Court shall presume that such person has committed such offence or attempt or abetment of such offence, as the case may be, unless the contrary is proved.

(11) Where the provision of this Act or the related rules in context of search, acquisition, disposal and seizure are silent, the relevant provisions of the Code of Criminal Procedure, 1973 shall be effective thereto.]

5-B.- *Whoever causes any physically injury to any cow or its progeny so as to endanger the life thereof such as to mutilate its body or to transport it in any situation whereby endangering the life thereof or with the intention of endangering the life thereof does not provide with food or water shall be punished with imprisonment for a term which shall not be less than one year and which may extend to seven years and with fine which shall not be less than one Lakh rupees and which may extend to three Lakh rupees.*

Rule 16.-*(1) Any person intending to transport or the offer for transport or to cause to transport any cow, bull or bullock, the slaughter whereof is punishable under this Act in any place in Uttar Pradesh from any place within the State to any place outside the State shall apply for a permit to the licensing authority on prescribed Form "G".*

(2)The licensing authority may grant such permit on payment of fee of Rs. 5.00 (Rupees five) per cow, bull or bullock to be deposited through treasury Challan under the receipt head '110 - Puashupalan - A - Other receipt (6) Misc.' In case the animal so transported is brought back to the State within the period of six months from the date of issue of the permit, the fee Rs. 5.00 shall be refunded to the permit-holder, if the refund is claimed. All animal intended to be transported shall be tattooed in right ear prior to the transportation from the State.

(3)Cow, bull or bullock transported without a valid permit shall be confiscated and shall be auctioned and the sale proceeds will be deposited under the receipt head given in sub-rule (2) above and such person, who causes unauthorised transport shall be prosecuted under Section 8 of the Act.

(4)The permit referred in sub-rule (2) shall be in Form 'H'.

(5)In the event of death of the cow, bull or bullock being so transported prior to its return, the permit-holder shall submit the death certificate from the local Veterinary Surgeon to the licensing authority failing which he shall be liable for prosecution under Section 8 of the Act.

(6)These rules shall also apply to the cow, bulls or bullocks transported to cattle fairs, exhibitions and markets outside the State. The permit-holder shall have to submit a certificate of sale from the manager of such fairs, exhibitions and market to the licensing authority on Form I failing which he shall be liable to prosecution under Section 8 of the Act.

(7)In case cow, bulls or bullocks are needed by another State Government of recognised institutions outside the State, such permit for transportation of animal will be granted on deposit of requisite fees by the party concerned under sub-rule (2), but the application shall have to be routed through the State Government concerned."

14. The Apex Court in the case of ***Saurabh Bajaj vs. State of Chhattisgarh and others 2026 SCC OnLine SC 2054***, while interpreting Section 6 and 11 of the Chhattisgarh Agricultural Cattle Preservation Act,2004, has held that mere absence of documents accompanying the transportation of cattle does not, by itself, give rise to a presumption that the cattle were being transported for slaughter. The reverse burden under Section 11, i.e. the burden of proving that the slaughter, transport or sell of Agricultural cattle was not in contravention of the provisions of this Act, would arise only when the prosecution first establish the essential

ingredients of the offence under Section 6 i.e. the cattle/animals were indeed transported outside the State for the purpose of slaughter. The relevant para is reproduced as under:-

"8. Section 6 specifically indicates the offence of transportation of cattle for the purpose of slaughter or knowledge that such cattle are likely to be slaughtered. ***But for a mere presumption of such intention, by the Head Constable, PW3, there is nothing on record to show that the cattle were carried for slaughter. The reverse presumption provided by Section 11 would apply only if the essential ingredients for alleging the offence are proved before the Trial Court****. In which event, the accused has the onus to prove that the transport for slaughter or the slaughter itself was not in violation of the provisions of the Act.* ***The mere fact that the transport was not accompanied by any documents cannot lead to a presumption that the transport was for slaughter. The absence of documents to validate the transportation, if it is in violation of any statute, then the consequences should flow from that statute and cannot lead to an assumption of violation of the provisions of the Act.****"*

(emphasis supplied)

15. Further, this Court in the case of ***Kaliya vs. State of UP And Others 2023 SCC OnLine All 1974***, held as under:-

"10. Having heard learned counsel for the petitioner, learned A.G.A. and going through the record as well as provisions of the Act, I find that the moot question involved in this case is whether the present petitioner has violated any provision of law in transportation of cows and its progeny by the aforesaid vehicle and whether the impugned orders have been passed confiscating the said vehicle in accordance with law.

*11. ****

12. ***A perusal of section 5-A(1) of the Act shows that the said provision shall come into place when the cow or its progeny is transported from within the State of U.P. to any other place outside the State and in that case, permit issued by the authorised officer of the State government shall be required.***

13. There is nothing on record to show that the alleged recovered animals, i.e. the cows were being transported from within the State of U.P. to any other State. Therefore, from the plain reading of section 5-A of the Act, the permit is not required in the peculiar facts of this case.

14. The question involved in the case in hand has also come up for consideration before this court in Kailash Yadav v. State of U.P. 2008 (10) ADJ 623 wherein it has been held that no permit is required for transportation of cow or its progeny within the State of U.P. Section 5-A(6 to 8) provides for confiscation and release of vehicle by which beef or cow and its progeny is transported in violation of the provisions of the Act and relevant rules.

15. ***From perusal of sub sections (1 to 5) of section 5-A of the Act and the law laid down by this court in Kailash Yadav's case (supra), it is evident that there is no need of permit to transport cow(s) and its progeny within the State of U.P. Hence, such transportation of cow and its progeny cannot be said to be in violation of the Act. Consequently, it can also not be said that the seized vehicle has been used in violation of Section 5-A or any other provision of the Act. Therefore, the police has no power or jurisdiction to seize or confiscate the vehicle in question and the District Magistrate also could not have issued notice under section 5-A of the Act when there is nothing to substantiate that the animals were being transported from within the State to some other State. In other words, in case the animals were being transported within the State of U.P., no show cause notice under section 5-A of the Act could have been given.***

16. A coordinate Bench of this Court vide judgment and order dated 25.8.2022 passed in Mohd. Shakib v. State of U.P. Application under section 482 CrPC No. 23143 of 2021 ***has held that no permit is required to transport cow and its progeny within the State of U.P. and therefore, it cannot be said that the seized vehicle in question was used in violation of section 5A(1) to (11) or any provisions of the Cow Slaughter Act*** *. Relevant paras 12 and 13 of the judgment in Mohd. Shakib's case (supra) is reproduced as below:*

"12. Now, it is to be considered whether permit is required for transportation of the cow or its progeny within the State of Uttar Pradesh. This question came up for consideration before this Court in Criminal Revision No. 131 of 2005 (Kailash Yadav v. State of U.P., 2008 (10) ADJ 623), wherein it is held that no permit is required for transportation of cow or its progeny within the State of Uttar Pradesh. Sub-section 5A (6 to 8) provides for confiscation and release of vehicle by which beef or cow and its progeny is transported in violation of the provision of this Act and the relevant rules. Sub-section 5A (6 to 8) reads as follows:-

(6) Where the said conveyance has been confirmed to be related to beef by the

competent authority or authorised laboratory under this Act, the driver, operator and owner related to transport, shall be charged with the offence under this Act, unless it is not proved that the transport medium used in crime, despite all its precautions and without its knowledge, has been used by some other person for causing the offence.

(7) The vehicle by which the beef or cow and its progeny is transported in violation of the provisions of this Act and the relevant rules, shall be confiscated and seized by the law enforcement officers. The concerned District Magistrate/Commissioner of Police will do all proceedings of confiscation and release, as the case may be.

(8) The cow and its progeny or the beef transported by the seized vehicle shall also be confiscated and seized by the law enforcement officers. The concerned District Magistrate/Commissioner will do all proceedings of the confiscation and release, as the case may be.

13. ***From the perusal of sub-section (1 to 5) of Section 5A of this Act and the law laid down by this Court in Kailash Yadav v. State of U.P. (supra), it is abundantly clear that there is no need of permit to transport cow and its progeny within the state of Uttar Pradesh. Therefore, transportation of a cow and its progeny within the state of Uttar Pradesh is not a violation of any of the provisions of the Cow Slaughter Act. Therefore, it cannot be said that the seized vehicle in question was used in violation of Section 5A (1) to (11) or any provisions of the Cow Slaughter Act, and therefore, police has no power or jurisdiction to seize or confiscate the vehicle in question.*** *The District Magistrate, Varanasi has passed the impugned confiscation order dated 18.08.2021 in contravention of the law, as no permit is required to transport cow and its progeny within the state of Uttar Pradesh. In above circumstances, the impugned order dated 18.08.2021 passed by District Magistrate, Varanasi is without jurisdiction and the same is liable to be set-aside. Likewise, the revisional court has not considered the relevant provisions of Section 5A of Cow Slaughter Act while dismissing the criminal revision of the applicant, therefore, the impugned order dated 13.10.2021 passed by Special Judge (SC/ST Act), Chandauli is also against the provisions of law and is liable to be set-aside."*

(emphasis supplied)

16. Similarly, this Court again in the case of ***Munib vs. State of UP and 2 others 2024 SCC OnLine All 9631*** held as under:-

"12. Thus transportation of cow etc. is regulated by Section 5A and Section 5A(7) confers power upon the District Magistrate/Commissioner of Police to confiscate the

vehicle by which the beef or cow and its progeny is transported in violation of the provisions of this Act and the relevant Rules. A perusal of the F.I.R. indicates that none of the cow were maimed nor physically injured. Further, the allegation that they were being transported to West Bengal from Prayagraj for slaughtering requires no consideration ***as the condition precedent for the application of the section is that the cattle described in the Act should have been transported from any place in the State of U.P. to any place outside the State. Even if the story of seizure of cattle is believed then also 06 cattle are said to have been seized within the jurisdiction of Police Station Lalganj District Mirzapur namely within the State of Uttar Pradesh and admittedly, the border is far away. The fact remains that cattle were apprehended from within the State of U.P. and, therefore, it cannot be said that they were transported to a place outside the State of U.P.***

13....Commission of offence is one of the requisite ingredients for passing an order of confiscation and an order of confiscation should not be passed automatically. Thus, there is no material, as exist on record, to justify the exercise of powers under Sub Section 7 of Section 5A. The same is clearly contrary to the mandates and powers conferred upon the District Magistrate.

14. The confiscation by its very connotation implies depriving a person of his property to which he is entitled to retain. Article 300A of the Constitution of India provides that no person shall be deprived of his property save by authority of law. Arbitrary confiscation of the property which he might be using for his trade, profession or occupation is a serious encroachment on the fundamental right of a citizen under Article 19(1)(g) of the Constitution of India to carry on his trade, occupation or business. The procedure prescribed by law for confiscating the property as contained in Section 5A(7) of the Cow Slaughter Act, empowers the District Magistrate/Commissioner of Police to confiscate/seize the vehicle only if the conditions so prescribed under Sub Section 7 of Section 5A are fulfilled."

(emphasis supplied)

17. Upon a careful examination of the statutory provisions and the material brought on record, this Court finds that the principal question requiring determination is whether there existed any legal material before the confiscating authority to conclude that the cow and its progeny were being transported outside the State of Uttar Pradesh for the purpose of slaughter.

18. This Court finds that the answer must necessarily be in the negative. It is not in dispute that the petitioner's vehicle was intercepted within the territorial limits of District Mirzapur. The entire reasoning adopted by the confiscating authority proceeds on the assumption that since Mirzapur is adjoining with the neighbouring State of Bihar, the cows and its progeny must necessarily have been intended to be transported to the State of West Bengal for slaughter. Such a conclusion is founded merely upon conjectures and surmises and is wholly unsupported by any independent evidence. The existence of an international or inter-State boundary by itself cannot constitute proof of illegal transportation. Unless there exists positive and cogent evidence indicating that the destination of the vehicle was outside the State of Uttar Pradesh or that the transportation was intended for slaughter, no such presumption can legally be drawn merely because the vehicle happened to be intercepted in a border district.

19. The authorities have failed to produce any material whatsoever indicating the intended destination of the vehicle. Neither any statement of the driver nor any documentary evidence nor any independent witness has been relied upon to establish that the animals were being transported to the State of West Bengal.

20. A finding has been recorded by the authorities below that the animals were being transported in the vehicle in a cruel manner. Upon perusal of the case diary, it transpires that the two bullocks allegedly recovered from the petitioner's vehicle were never examined by any veterinary doctor and no veterinary examination report of the animals in support of the said finding, has been brought on record by the State through counter-affidavit. In such circumstances, it cannot be presumed, merely on the basis of the manner of transportation alleged by the authorities, that the animals were being transported in a cruel manner in the petitioner's vehicle.

21. It is further pertinent to mention that, in view of the provisions of Section 5-B of the Act, 1955, the nature of injuries sustained by the animals must be such as to endanger their lives or cause mutilation of their bodies. However, in the present case, no veterinary examination report has been brought on record to establish the existence of any such injuries. The absence of any medical examination report of the animals, therefore, renders the allegation of their being transported in a cruel

manner unsupported by any cogent evidence. Consequently, no case is made out for attracting the provisions of Section 5-B of the Act, 1955. There is no material on record to establish that cruelty was inflicted upon the animals while they were being transported in the petitioner's vehicle. It is, therefore, apparent from the record that the authorities below have erred in recording a finding that the animals were being transported in a cruel manner in the petitioner's vehicle.

22. A plain reading of Rule 16 leaves no room for ambiguity that the requirement of obtaining permit is attracted only where cow and its progeny are proposed to be transported from any place within the State of Uttar Pradesh to any place situated outside the State. The Rule does not require any permit for transportation of cow and its progeny from one place to another within the territorial limits of Uttar Pradesh. This Court has consistently interpreted the said Rule to hold that no permit or permission is required for transportation of cow and its progeny within the State of Uttar Pradesh, and the confiscating authority has completely overlooked the settled legal position.

23. Admittedly, in the present case, neither any beef nor any remains of slaughtered cow and its progeny were recovered from the petitioner's vehicle. The foundational facts necessary for drawing the statutory presumption are, therefore, completely absent. In absence of those foundational facts, the burden never shifted upon the petitioner. Consequently, both the authorities have committed a manifest error of law in invoking the statutory presumption against the petitioner.

24. Viewed from any angle, this Court finds that the confiscation proceedings suffer from patent illegality, complete non-application of mind and misinterpretation of the statutory provisions. The impugned orders are based on assumptions unsupported by evidence and cannot withstand judicial scrutiny.

25. Accordingly, the order dated 22.11.2024 passed by the District Magistrate, Mirzapur and the appellate order dated 21.05.2026 passed by the Commissioner, Vindhyachal Division, Mirzapur deserve to be quashed.

26. The matter, however, does not end with setting aside the confiscation orders. The petitioner has specifically pleaded that the vehicle in question

constituted his sole source of livelihood. The said assertion has not been specifically denied by the respondents. It is further evident from the record that the petitioner's vehicle was purchased by obtaining a loan from M/s Magma Fincorp Limited(now Poonawalla Fincorp Limited), against which the petitioner was paying monthly instalments of Rs.27,709/-. However, on account of the illegal confiscation of the vehicle by the State authorities, the petitioner was deprived of the opportunity to earn his livelihood through the said vehicle, which also resulted in his inability to pay the monthly loan instalments in time, thereby exposing him to the liability of penal interest. The aforesaid facts stand substantiated by the loan account statement brought on record by the petitioner along with his rejoinder affidavit.

27. The inevitable consequence of the illegal action of the State has been that the petitioner remained deprived of his only source of income for a substantial period without any legal justification. Article 21 of the Constitution protects not merely life but also the right to livelihood.

28. The Apex Court in the case of ***Nilabati Behera (Smt.) Alias Lalita Behera(Through The Supreme Court Legal Aid Committee) vs. State of Orissa and Others (1993) 2 SCC 746***, held as under:-

"34. The public law proceedings serve a different purpose than the private law proceedings. The relief of monetary compensation, as exemplary damages, in proceedings under Article 32 by this Court or under Article 226 by the High Courts, for established infringement of the indefeasible right guaranteed under Article 21 of the Constitution is a remedy available in public law and is based on the strict liability for contravention of the guaranteed basic and indefeasible rights of the citizen. The purpose of public law is not only to civilize public power but also to assure the citizen that they live under a legal system which aims to protect their interests and preserve their rights. Therefore, when the court moulds the relief by granting 'compensation' in proceedings under Article 32 or 226 of the Constitution seeking enforcement or protection of fundamental rights, it does so under the public law by way of penalising the wrongdoer and fixing the liability for the public wrong on the State which has failed in its public duty to protect the fundamental rights of the citizen. The payment of compensation in such cases is not to be understood, as it is generally understood in a civil action for damages under the private law but in the broader sense of providing relief by an order of making ?monetary amends? under the public law for the wrong

done due to breach of public duty, of not protecting the fundamental rights of the citizen. The compensation is in the nature of 'exemplary damages' awarded against the wrongdoer for the breach of its public law duty and is independent of the rights available to the aggrieved party to claim compensation under the private law in an action based on tort, through a suit instituted in a court of competent jurisdiction or/and prosecute the offender under the penal law.

35. This Court and the High Courts, being the protectors of the civil liberties of the citizen, have not only the power and jurisdiction but also an obligation to grant relief in exercise of its jurisdiction under Articles 32 and 226 of the Constitution to the victim or the heir of the victim whose fundamental rights under Article 21 of the Constitution of India are established to have been flagrantly infringed by calling upon the State to repair the damage done by its officers to the fundamental rights of the citizen, notwithstanding the right of the citizen to the remedy by way of a civil suit or criminal proceedings. The State, of course has the right to be indemnified by and take such action as may be available to it against the wrongdoer in accordance with law ? through appropriate proceedings. Of course, relief in exercise of the power under Article 32 or 226 would be granted only once it is established that there has been an infringement of the fundamental rights of the citizen and no other form of appropriate redressal by the court in the facts and circumstances of the case, is possible."

29. The Apex Court again in the case of ***Sube Singh vs. State of Haryana and Others (2006) 3 SCC 178 (By Three Judges)***, held as under:-

"38. It is thus now well settled that the award of compensation against the State is an appropriate and effective remedy for redress of an established infringement of a fundamental right under Article 21, by a public servant. The quantum of compensation will, however, depend upon the facts and circumstances of each case. Award of such compensation (by way of public law remedy) will not come in the way of the aggrieved person claiming additional compensation in a civil court, in the enforcement of the private law remedy in tort, nor come in the way of the criminal court ordering compensation under Section 357 of the Code of Criminal Procedure."

30. Similarly, the Apex Court again in the case of ***Indibily Creative Private Ltd. And Others vs. Government of West Bengal And Others (2020) 12 SCC 436***, has granted compensation for consequential financial losses caused by State authorities. In this case the petitioner has suffered violation of fundamental rights under Articles 19(1)(a) & (g), 14 and 21. The respondent State authorities were directed to pay compensation of Rs

20 lakhs, which was a huge amount. The relevant para is extracted hereinbelow:-

"52. As a consequence of the pulling off of the film from the theatres where it was screened on 16-2-2019, the petitioners have suffered a violation of their fundamental right to free speech and expression and of their right to pursue a lawful business. This has been occasioned by the acts of commission and, in any event, of omission on the part of the State in failing to affirm, fulfil and respect the fundamental freedoms of the petitioners. We are clearly of the view that a remedy in public law for the grant of remedial compensation is required in the present case. We order and direct the respondents to pay to the petitioners compensation which we quantify at Rs 20 lakhs within a period of one month from the date of the present judgment."

31. It is apparent that whenever the instrumentalities of the State, by arbitrary and illegal exercise of statutory powers, deprive a citizen of his legitimate means of earning his livelihood, the constitutional courts are fully empowered to award compensation in exercise of their public law jurisdiction. Compensation in such cases is not merely restitutive but also serves as a constitutional remedy against arbitrary exercise of State power.

32. Having regard to the facts of the present case, the nature of the vehicle, the admitted repayment of substantial monthly loan installments and the ordinary earning capacity of a commercial transport vehicle, this Court is of the considered opinion that the petitioner's monthly loss of income can reasonably be assessed at Rs.40,000/- per month.

33. Accordingly, the petitioner shall be entitled to compensation @ Rs.40,000/- per month from 18.09.2023, i.e., the date of seizure of the vehicle, till the actual date on which possession of the vehicle is restored to him.

34. Apart from the financial loss, the petitioner has also suffered avoidable litigation, mental harassment, financial distress and unnecessary hardship solely because of the arbitrary and illegal action of the authorities. This Court, therefore, considers it appropriate to award an additional sum of Rs.25,000/- towards compensation for mental agony, harassment and avoidable litigation suffered by the petitioner.

35. Accordingly, the writ petition succeeds and is ***allowed*** with the

following directions:

(i) The order dated 22.11.2024 passed by the District Magistrate, Mirzapur confiscating the petitioner's vehicle and the appellate order dated 21.05.2026 passed by the Commissioner, Vindhyachal Division, Mirzapur are hereby quashed.

(ii) The respondents are directed to release the petitioner's vehicle bearing Registration No.UP-50-CT-4205 forthwith, if not required in connection with any other case, preferably within one week from the date of production of a certified copy of this judgment.

(iii) The respondents shall pay to the petitioner compensation calculated at the rate of Rs.40,000/- per month from 18.09.2023 till the date of actual release of the vehicle.

(iv) The respondents shall further pay a consolidated amount of Rs.25,000/- to the petitioner towards compensation for the mental agony, financial hardship and unnecessary harassment suffered by him on account of the illegal confiscation.

(v) The aforesaid amount shall be paid within one month from the date a certified copy of this judgment is produced before the competent authority, failing which, the petitioner shall be entitled to simple interest @8% per annum on the above amount from the date of this order, till the date of actual payment to the petitioner.

(vi) In the event of failure to comply with the aforesaid directions within the stipulated period, it shall be open to the petitioner to seek appropriate legal remedies available in law for enforcement of this order.

(vii) Since the confiscation has been found to be wholly illegal and arbitrary, it shall be open to the State Government to hold an appropriate departmental inquiry and, if responsibility is fixed upon any officer for the illegal exercise of statutory power, to recover the amount of compensation and interest paid to the petitioner from the officer(s) found responsible, strictly in accordance with law and after complying with the principles of natural justice.

(Sandeep Jain,J.)

November 3, 2026
Jitendra

Digitally signed by :-
JITENDRA KUMAR PATEL
High Court of Judicature at Allahabad