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WP-7841-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VISHAL DHAGAT

ON THE 10th OF MARCH, 2025WRIT PETITION No. 7841 of 2025***BHAGBAN SINGH PARMAR****Versus****THE STATE OF MADHYA PRADESH AND OTHERS***

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Appearance:

Shri Shashank Upadhyay - Advocate for petitioner.

Shri Yogesh Dhande - Government Advocate for respondents/State.

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ORDER

Petitioner has filed this petition under Article 226 of the Constitution of India, challenging confiscation proceedings and that order contained in Annexure P/5, dated 15.01.2025, by which petitioner was not allowed to engage an Advocate in the case.

2. Counsel for petitioner submitted that petitioner is not provided documents of the case so that he can file the proper application opposing confiscation of the vehicle. Counsel appearing for petitioner further submitted that there is no bar in Section 52 of Indian Forest Act, 1927 to stop an Advocate to appear for his client before authorized officer doing confiscation proceedings. It is submitted that in judgment reported in *2012 (2) MPLJ 453, Kuldeep Sharma vs. State of M.P.*, as a corollary, Court has stated that Advocates may not appear as no evidence is to be recorded.

3. Government Advocate appearing for respondents/State opposes the prayer and submitted that Advocate cannot appear in proceedings for confiscation in view of the judgment passed by this Court reported in *Kuldeep Sharma*



(*supra*). Permission to engage counsel has rightly been rejected under Section 52. It is submitted that there is no cause of action to challenge confiscation proceedings.

4. Heard the counsel for the parties.

5. As per Section 30 of Advocates Act, 1961, Advocates are given right to appear before any Tribunal or person legally authorized to take evidence. In case of confiscation, authority takes evidence from Forest Department and from owner of vehicle involved in forest offence. Recording of statement, affidavits, documents filed before forest officer is evidence and therefore, as per Section 30 of Advocates Act, Advocates can appear in confiscation proceedings. There is no bar under Section 52 of Indian Forest Act, 1927 from appearance of Advocates in said proceedings. However, Advocates will not have any right to cross-examination on statement or affidavits filed in proceeding of confiscation.

6. In view of Section 30 of Advocates Act, 1961 and Section 52 of Indian Forest Act, 1927, Advocates can appear before authorized forest officer in confiscation proceedings. Order of D.F.O. dated 15.01.2025 is quashed. Petitioner is granted liberty to file an application to get documents from office of Forest Ranger, Niwari and file its evidence.

7. Petition is **disposed off**.

(VISHAL DHAGAT)
JUDGE