

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.488 of 2015

Arising Out of PS.Case No. -null Year- null Thana -null District-
EASTCHAMPARAN(MOTIHARI)

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Bhimal Sah S/o Bishun Sah resident of village- Sugauli, P.S. Lauriya, District-
West Champaran

.... Petitioner/s

Versus

1. The State of Bihar, through department of Home, Government of Bihar, Patna.
2. The Principal Secretary Department of Excise Government of Bihar, Patna
3. The District Magistrate, Motihari, East Champaran.
4. The Police Superintendent, Motihari, East Champaran.
5. The Officer in-charge of Piprakothi, Police Station East Champaran

.... Respondent/s

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT
Date: 16-12-2016

Heard the counsel for the petitioner and the State.

A counter affidavit is filed.

The petitioner is the owner of the truck lorry/tank lorry bearing registration mark and no. BR-05G 1190 which was seized in connection with Piprakothi P.S. Case No. 20 of 2013 for its alleged involvement in the crime registered under diverse penal provisions of the IPC read with section 47(a) of the Bihar Excise Act (for short ‘the Act’). The respondents seized the truck lorry along with the spirit. Subsequently, it appears a confiscation proceeding was initiated under section 67(2) of the Act vide Confiscation Excise Case No. 02 of 2013. The respondent District Collector, vide order dated 03.11.2014 (Annexure-3) confiscated not only the spirit laden on the truck lorry/tank lorry but the truck lorry as well. The petitioner is aggrieved



by the said order of confiscation passed in respect of the truck lorry/tank lorry.

It is stated that without issuing any notice to the petitioner and affording him an opportunity of filing a show, the said order has been passed. It is further highlighted that the petitioner was not even made a party to the said proceeding and the order was passed.

A counter affidavit is filed on behalf of the State respondent. It is stated that as the petitioner was not initially made accused in the case, no notice was issued to him.

From the statement made in paragraph 7 of the counter affidavit, it appears that subsequently the petitioner was also roped in the said case and charge-sheet was filed wherein it is stated that the petitioner has been released on bail.

On going through the relevant pleadings, it is evident that no opportunity of hearing was afforded to the petitioner by the District Collector who is the competent authority under the Excise Act before passing the order of confiscation. Apart from the rule-provision, there is a clear breach of the rules of natural justice in a case which is a quasi judicial proceeding.

Situated thus, the present application is allowed. The order dated 03.11.2014 passed by the District Magistrate, East Champaran in Confiscation Excise Case No. 92 of 2013, insofar as confiscation of the vehicle in question is concerned, is quashed and set aside. The said case is restored on the file of the District Collector for disposal in accordance with law. The petitioner shall appear before the District Collector along



with a copy of this order as well as his explanation/show cause against proposed seizure within 03 weeks from today enabling the District Collector to pass a fresh order in the said proceeding in accordance with law.

(Kishore Kumar Mandal, J)

HR/-

AFR/NAFR	
CAV DATE	
Uploading Date	22.12.16
Transmission Date	

