

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8509 of 2018

Sunil Kumar, son of Subhash Chandra Singh, resident of village & P.O. Sakrohar, P.S. Beldaur, District Khagaria

... .. Petitioner

Versus

1. The State Of Bihar through the Principal Secretary, Excise Department
2. The District Magistrate, Khagaria
3. The Superintendent of Police, Khagaria
4. The District Supply Officer, Khagaria
5. The S.H.O. Beldaur, P.S., District Khagaria

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Ram Sumiran Rai, Adv.
For the Respondent/s : Mr. Kumar Manish, SC5

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 26-11-2018

Heard Mr. Ram Sumiran Rai, learned counsel for the petitioner
and Mr. Kumar Manish, learned SC-5 for the State.

This application is filed for release of the motorcycle bearing registration No. BR-34J-9223 which has been allegedly seized in connection with Beldaur P.S. Case No. 95/2017 registered under section 30(a) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as 'the Act') and sections 25(1-b)a and 26 of the Arms Act.

Though this matter is posed for consideration of the office note but on call Mr. Kumar Manish, learned State Counsel, informs that the petitioner in fact has come against the final order passed by the statutory authority i.e. the Collector cum District Magistrate, Khagaria in Confiscation Case No. 50/2017-18 and which order is appealable under section 92(2) of 'the Act'. He further informs that the confiscated vehicle has since been



auctioned as placed on record by way of counter affidavit and thus, the issue so raised can well be raised by the petitioner in the statutory appeal so available under ‘the Act’.

Undisputedly Section 92(2) of ‘the Act’ provides for statutory appeal against the final order passed by the Collector and since the final order has already been passed on the confiscation case, we refrain ourselves from expressing any opinion on the merits of the claim so raised rather are persuaded to dispose of the writ petition with liberty to the petitioner, if so advised, to question the confiscation order in an appropriate proceeding as per statutory remedy so available to him under ‘the Act’.

Since the limitation so prescribed under ‘the Act’ allows 60 days time to file an appeal and which has long expired, we taking note of the circumstances permit the petitioner to file the appeal accompanied with a petition for condonation of delay and it goes without saying that should any such appeal be filed by the petitioner within six weeks from today accompanied with a limitation petition, the same shall be considered by the appellate authority and be disposed of in accordance with law bearing in mind the pendency of the matter before this Court.

This disposes of the writ petition.

(Jyoti Saran, J)

(Rajeew Ranjan Prasad, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.12.2018
Transmission Date	NA

