

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2717 of 2017

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Chhoti Sahni, son of Ganeshi Sahni, resident of Ward No. 8, Supaul, P.S. –
Supaul, District – Supaul.

.... Petitioner

Versus

1. The State of Bihar, Through Principal Secretary, Excise Department,
Bihar, Patna.
2. The Commissioner, Excise Department, Bihar, Patna.
3. The Collector-cum-District Magistrate, Madhepura
4. The Superintendent of Excise, Madhepura.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Uday Chand Prasad

For the Respondent/s : Mr. Kumar Manish (SC-5)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4. 09-03-2018

Learned counsel for the State informs this court that in fact much before passing of the order dated 08.01.2018 by this court, the vehicle in question was already auction sold, however this fact could not be brought to the notice of this court on the said date as the petitioner informed the court that the vehicle is still not being sold.

In view of the information furnished in paragraph 6 of the counter affidavit filed on behalf of respondent nos. 3 & 4, the order for provisional release of the vehicle dated 08.01.2018 is hereby recalled.

The petitioner has challenged the order of



confiscation passed by the Collector in confiscation case no. 28/2017 arising out of Gamharia P.S. Case No. 15 of 2017. Since there is a provision for statutory appeal against the confiscation order under the Bihar Prohibition and Excise Act, 2016, this Court would not entertain the writ application because of availability of alternative remedy to the petitioner.

Learned counsel for the petitioner at this stage seeks leave to challenge the order of confiscation either by way of appeal under the relevant statute or by filing a duly constituted civil writ challenging the confiscation order together with the *vires* of the provisions of the Bihar Prohibition and Excise Act, 2016 whereunder the Collector being an executive cannot have power to pass an order of confiscation. Learned counsel for the State has no objection to the petitioner availing his remedy in accordance with law.

In the aforesaid view of the matter, nothing remains for adjudication by this court at this stage in the present writ application. liberty is granted to the petitioner as sought for.

This criminal writ application is disposed off



with the observations mentioned above.

Rajeev/-

(Rajeev Ranjan Prasad, J.)

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