

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19300 of 2018

Chhedi Mahto @ Chedi Mahto Son of Chandeswar Mahto Resident of Village/Mohallah- Loharpur, Ward No. 13, Laharpur, P.S. Bahera, District- Darbhanga , Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate-Cum-Collector, Darbhanga , District Darbhanga, Bihar.
3. The Assistant Excise Commissioner, Darbhanga, District Darbhanga, Bihar.
4. The Superintendent of Excise, Darbhanga, District- Darbhanga, Bihar.
5. The Superintendent of police, Darbhanga, District Darbhanga, Bihar.
6. The Vehicle Inspector, Darbhanga, District- Darbhanga, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Vinay Kumar Mishra, Adv.

For the Respondent/s : Mr. Pawan Kumar, A.C. to GA1

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 18-04-2019

Heard Mr. Sunil Kumar, learned counsel for the petitioner and Mr. Pawan Kumar, A.C. to G.A.1 for the State.

The petitioner is aggrieved by the order dated 12.01.2018 passed by the Confiscating authority under the Bihar Prohibition of Excise Act, 2016 (hereinafter referred to as 'the Act') who is the respondent No.2 herein, the District Magistrate-cum-Collector, Darbhanga whereby he has confiscated a sum of Rs. 1,52,000/- from the petitioner simply because he was charged of being allegedly involved in illegal liquor trade. The order of confiscation is impugned at Annexure-2 to the writ



petition.

We have heard learned counsel for the parties and we have perused the materials on record and examined the provisions of Section 58 of 'the Act' which nowhere empowers the Confiscating authority to confiscate any money found in possession of a person charged with an offence under 'the Act'. The order is illegal because cash is not a prohibitory item under 'the Act' and thus could not have been confiscated by the Confiscating authority in purported exercise of power under the said 'Act'.

We accordingly quash the confiscation order dated 12.01.2018 passed in Confiscation Case No.5 of 2017 and direct the District Magistrate, Darbhanga to remit the amount in question to the petitioner within 48 hours on receipt/production of a copy of this order.

The writ petition is allowed.

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

Bibhash

AFR/NAFR	AFR
CAV DATE	NA
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