

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3447 of 2019

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Sandeep Kumar S/o Kameshwar Pandey Mohalla-P.P. Road Jahajghat, P.s.-
Buxar(T), Distt.-Buxar

... .. Petitioner/s

Versus

1. The State of Bihar and Ors through its Principal Secretary, Excise Department, Patna
2. The Divisional Commissioner Excise Department, Patna Division at Patna
3. The District Collector Buxar at Buxar
4. The Superintendent of Police Buxar at Buxar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar Gupta, Adv.
For the Respondent/s : Mr. Kumar Manish (SC-5)

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 28-02-2019

Heard learned counsel for the petitioner and learned
counsel for the State.

This application has been filed for quashing of the order dated 14.12.2018 passed in Confiscation Case No. 71 of 2018 by the Collector-cum-District Magistrate, Buxar by which the vehicle in question (Celerio VXi Suzuki) bearing registration No. BR-44F-8453, which has been seized in connection with Koransarai P.S. Case No. 58 of 2018 due to



violation of the Bihar Prohibition and Excise Act, 2016, has been confiscated.

Learned counsel for the petitioner informs that the vehicle in question had been released by a co-ordinate Bench of this Court vide order dated 20.06.2018 passed in C.W.J.C. No. 10977 of 2018 (Sandeep Kumar Vs. The State of Bihar and Ors.) which release was only pending finalization of the confiscation proceeding. He further informs that final order has been passed in the confiscation proceeding. Learned counsel for the petitioner submits that since the appellate authority under the Act, has no power to grant interim relief, hence this writ petition and alongside, liberty may be granted to the petitioner to challenge the confiscation order by filing an appeal before the Commissioner within a period of 30 days from today.

Having heard learned counsel for the parties and in the circumstances noted where final orders have been passed in the confiscation proceeding, we are persuaded to grant liberty to the petitioner to challenge the final order of confiscation before the appellate authority within a period of 30 days from today. In case such appeal is preferred within the aforesaid period together with an application for condonation



of delay, the appellate authority shall consider the same keeping in mind that the petitioner was prosecuting his remedy before this Court and the appeal shall be heard on its own merit and disposed of expeditiously.

In so far as the issue of provisional release of the vehicle is concerned, since the court has already released the vehicle albeit provisionally, the interim release order dated 20.06.2018 passed in C.W.J.C. No. 10977 of 2018 (Sandeep Kumar Vs. The State of Bihar and Ors.) shall continue until the disposal of appeal but, in case, the petitioner fails to file the appeal within 30 days from today, this interim order shall stand withdrawn and the Confiscation Authority shall be at liberty to proceed in accordance with law.

With the observations, this writ petition is allowed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Brajesh/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

