

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17408 of 2018

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Raju Sah @ Raju Shah son of Sukdev Sah @ Sukhadev Shah Resident of
Village - Dumma Tola, P.S. Tariyani, District - Sheohar.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Collector/District Magistrate, Sheohar.
3. The Superintendent of Police, Sheohar.
4. The Excise Superintendent, Sheohar.
5. The Excise Inspector, Sheohar.
6. The Office-in-Charge, Piprahi, P.S. Sheohar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Alok Kumar Alok
For the Respondent/s : Mr.Vivek Prasad -GP7

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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 : 11-03-2019

Heard the parties.

Final Orders have been passed in the confiscation
case bearing Confiscation Case No. 54 of 2017, a copy of
which is impugned at Annexure-2.

A very short submission is made by the learned
counsel for the petitioner to question the confiscation order
insofar as it relates to the vehicle of the petitioner bearing
Registration No. BR-06AV-9701, which was seized in
connection with Piprahi P.S. Case No. 37 of 2017 for alleged
violation of the provisions of Bihar Prohibition and Excise



Act, 2016 (hereinafter referred to as 'the Act'). It is submitted that the seizure which is followed by the confiscation order is without any recovery of liquor or any other item prohibited under 'the Act'. Submission is that the matter was heard on 18.02.2019 allowing time to the State to file counter affidavit and following which a counter affidavit has been filed today accepting the position.

The order in question is being defended on the ground that the petitioner is also a part of the syndicate running the illegal business in the State.

The respondents may have their reasons to express as such, but the fact remains that no recovery was made from the vehicle of the petitioner, yet it was subject to seizure and which is followed by the confiscation order, both of which, in absence of recovery, are illegal and to that extent the seizure list as well as the confiscation order passed in Confiscation Case No. 54 of 2017 are quashed and set aside. The District Magistrate, Sheohar is directed to release the vehicle of the petitioner within 14 days of receipt/production of a copy of this order subject to production of ownership papers.

Mr. Vivek Prasad, learned counsel appearing for the State submits that there has been a recovery from a piece of land which is owned by the petitioner and to that extent



confiscation order may not be interfered with and the petitioner if so advised may be allowed to question the order before the appellate authority, to that extent.

The objection is valid and is upheld. The present order is restricted to the issue of the vehicle confiscated and we have interfered with the order so passed only to that extent.

Insofar as the confiscation order relates to confiscation of the land in question is concerned, the petitioner is afforded 30 days time to file an appeal before the appellate authority and it goes without saying that any such appeal filed within 30 days from today which relates to the land in question of the petitioner, if accompanied with a petition for condonation of delay, would be considered on its own merits and disposed of accordingly.

The writ petition is allowed with the directions/observations above.

(Jyoti Saran, J)

(Arvind Srivastava, J)

mcv/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.03.2019
Transmission Date	NA

