

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6561 of 2019

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Pushpender Kumar, Son of Chandrapal Singh, Resident of H.No. E-40/3,
P.O.- Ganesh Watika, P.S. - Roorkee, District - Haridwar (Uttarakand)

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
3. The Collector-cum-District Magistrate, Patna.
4. The Superintendent of Police, Patna.
5. The Superintendent of Excise, Patna.
6. Station House Officer, Marachi, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Samir Kumar, Adv.
For the Respondent/s : AC to GA-1

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 01-07-2019

Heard learned counsel appearing for the petitioner and learned counsel appearing on behalf of the State.

The petitioner prays for issuance of a writ in the nature of mandamus to direct the Special Judge, Excise Act, Patna to release the consignment of 611 cartons of biscuits which were being transported from Tihu (Assam) to Chapra in the district of Saran in the State of Bihar.

The petitioner is the Managing Director of the Transport Company namely, V.B. Golden Logitech Private Limited which hired the service of the truck in question bearing Registration No.UP78DN-2135 for transportation of the goods in question. It is the case of the petitioner that because the driver of the truck during the course of



transportation of the consignment also loaded 70 litres of Indian Made Foreign Liquor without the knowledge of the petitioner that the truck on interception was seized and consequentially the biscuits also were seized leading to institution of the police case bearing Maranchi (Pachmahla O.P.) P.S. Case No.92 of 2018. It is in the above circumstances that this writ petition is filed.

Learned counsel for the State while opposing the prayer, submits that since the truck was carrying liquor which is prohibited under the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as 'the Act') that the goods loaded thereon were also seized.

Having heard learned counsel for the parties and considering the prayer in this writ petition for release of the biscuits which are packed in 611 cartons and bearing note of the stipulation present in 'the Act' which nowhere empowers the authority to seize the goods which stand outside the purview of section 56 of 'the Act' and since no confiscation proceeding has yet been drawn, we direct the designated court below at Patna to forthwith ensure release of the biscuits packed in 611 cartons on production of transportation papers by the petitioner within a period of 7 days of receipt/production of a copy of this judgment.

With the observation above this writ petition is allowed.

(Jyoti Saran, J)

(Partha Sarthy, J)

skpathak/-

AFR/NAFR	NAFR
CAV DATE	NA
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