

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9433 of 2018

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Dhirendra Kumar Singh, Son of Late Raj Kumar Singh, Resident of Mandal
Dih, P.S.- Patepur, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Government of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Superintendent of Police, Vaishali at Hajipur.
4. The District Magistrate-cum- Collector, Vaishali at Hajipur.
5. The Dy. Superintendent of Police, Vaishali at Hajipur.
6. The Excise Inspector, Sadar, Vaishali at Hajipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anuj Kumar, Advocate
For the Respondent/s : Mr. Kumar Manish, SC5

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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 Mr. Anuj Kumar, learned counsel appearing
on behalf of the petitioner and Mr. Kumar Pankaj, learned AC to
SC-5 for the State.

This writ petition is filed for a direction to the
respondent-District Magistrate-cum-Collector, Vaishali, the
confiscating authority under the Bihar Prohibition and Excise
Act, 2016, to release the amount of Rs. 5,78,680/- seized from
the house of the petitioner in connection with C2A No. 130 of



2017 instituted for alleged violation of the provision of the Act. This matter has travelled a long distance and primarily because, while assertion of the petitioner is that the amount seized is Rs. 8,03,000/-, the seizure list shows that amount of Rs.5,78,680/- has been seized. A vigilance enquiry was also conducted which has been enclosed with the supplementary counter affidavit but does not give a clear indication as to the amount of recovery made from the house of the petitioner by the respondents. The records confirm that the petitioner, for the same purpose, has filed a complaint case bearing Complaint Case No. 1339 of 2017.

In our opinion, a mere apprehension of the respondents that the amount recovered is ill-gotten and proceeds of illegal liquor trade, is not sufficient for a seizure especially when recovery is of a meagre 1.25 liters of IMFL.

Learned counsel for the petitioner further submits that the recovery of liquor is not even from the house of the petitioner and yet they have illegally seized the money from his house. Section 56 of the Act contains the list of things which are liable for confiscation and certainly cash is not one amongst them.

In such view of the matter, the seizure of cash is held



illegal and the Confiscating Authority, i.e., the District Magistrate-cum-Collector, Vaishali cannot withhold the same. Accordingly, we direct the District Magistrate, Vaishali to release the cash amount of Rs. 5,78,680/- which stands noted in the seizure list within a period of a fortnight from the date of receipt/production of a copy of this order. Insofar as the dispute on the amount is concerned, since that is the subject matter of complaint filed by the petitioner, we refrain from expressing any opinion thereon.

The writ petition is allowed to the extent indicated above.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Nasimul/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	15-03-2019
Transmission Date	N/A

