

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.447 of 2020

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Mahendra @ Mahender @ Mahender Singh S/o Shri Banwarilal @ Banwari resident of House No. 205, Badesra (Baresara), P.S. and District- Bhiwani (Haryana), vehicle registration address at Soldha, P.S.- Bahadurgarh, District- Jhajjar (Haryana).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Bihar, Patna.
2. The Collector cum District Magistrate, Muzaffarpur.
3. The Superintendent of Excise, Muzaffarpur.
4. The Sub-Inspector of Excise, Town Anchal, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Bhola Prasad, Advocate Mr. Mukesh Kumar Jha, Advocate
For the Respondent/s	:	Mr. Kumar Manish, SC-5 Mr. Prashant Kumar, AC to SC-5

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
and
HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH)

2 14-01-2020 Heard Mr. Bhola Prasad, learned counsel for the petitioner and Mr. Prashant Kumar, learned AC to SC-5 for the respondent-State.

The present writ application has been filed for release of truck bearing Registration No. HR-63B-2399, in favour of petitioner which has been seized in Excise Case No. 315 of 2017 registered for the offences punishable under Sections 30(a), 32(ii) and 38 of Bihar Prohibition and Excise Act, 2016, as amended by the Amendment Act 8 of 2018 (hereinafter



referred to as 'the Act').

The relief, as prayed for by the petitioner as stipulated in paragraph no.1 of the writ application reads as follows :-

“That this is an application for issuance of an appropriate writ, order or direction directing the respondent concern to release the truck bearing registration no. HR-63B-2399, in favour of the petitioner which has been seized in connection with Excise Case No. 315/2017 instituted for offence under section 30A, 32(II), 38 of Bihar Prohibition and Excise Act.

And for any other relief(s) for which the petitioner is found to be entitled in the facts and circumstances of the case.”

The prosecution case got initiated with filing of a report by Rashmi Prasad, Sub-Inspector of Excise, Town Circle, Muzaffarpur on recovery of 45 litres of Indian Made Foreign Liquor from the truck in question.

Learned counsel for the petitioner confines his prayer only for a direction for concluding the confiscation proceeding pending since 2017, being Confiscation Case No. 927/17-18 before the Collector -cum- District Magistrate, Muzaffarpur. It is further submitted that the petitioner is regularly appearing in the confiscation proceeding but the same is adjourned on one or



the other pretext.

Learned counsel appearing for the respondents submits that he has no objection in disposal of the writ application with a direction to conclude the confiscation proceeding within a time frame.

Considering the rival submissions of the parties, we are of the considered view that the prosecution case was registered on 04.09.2017. The confiscation proceeding was initiated in 2017 being Confiscation Case No. 927/17-18 but the same has not been concluded which suggests the callous manner in which the Collector -cum- District Magistrate, Muzaffarpur is conducting the quasi judicial proceeding. It is well settled law that the more stringent is the Act, the more meticulously the procedural safeguard has to be followed. No doubt, no time limit has been fixed under Section 58 of the Act for conducting confiscation proceeding but it does not mean that it should be kept pending for indefinite period allowing the seized vehicle to reduced into a junk.

In the circumstances, it is expected from Respondent No. 2, the Collector -cum-District Magistrate, Muzaffarpur to conclude the proceeding of the Confiscation Case No. 927/17-18, arising out of Excise Case No. 315 of 2017 within a period



of four weeks from the date of receipt/production of a copy of this order in accordance with law after giving due opportunity of hearing to all affected persons.

The petitioner is also expected to appear regularly and participate in the confiscation proceeding.

Accordingly, with the above observation and direction, the present writ application is disposed of.

Let a copy of this order be transmitted to District Magistrate, Muzaffarpur.

(Dinesh Kumar Singh, J)

(Anil Kumar Sinha, J)

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