

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.445 of 2020

=====

Bijendra @ Bijendra Singh S/o Ramphal Singh @ Ramphool Singh, Resident of 591, Garhi Sisana (27-R), P.S. Kharkhanda, District Sonipat (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 Police, Muzaffarpur.
4. The Superintendent of Excise, Muzaffarpur.
5. The District Transport Officer, Muzaffarpur.
6. The S.H.O., Sahebganj Police Station, Sahebganj, Muzaffarpur.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Bhola Prasad, Advocate Mr. Mukesh Kumar Jha, Advocate
For the Respondent/s	:	Mr. Vivek Prasad, GP-7 Mrs. Manisha Singh, AC to GP-7

=====

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 Mrs. Manisha Singh, learned AC to GP-7 for the respondent-State.

The present writ application has been filed for release of TATA DCM truck bearing Registration No. HR-69C-1428, in favour of petitioner which has been seized in Sahebganj P.S. Case No. 261 of 2017 registered for the offences punishable under Sections 272, 273, 414/34 of the Indian Penal Code and



Sections 30(a), 32(II), 38(II) and 41(I) of Bihar Prohibition and Excise Act, 2016, as amended by the Amendment Act 8 of 2018 (hereinafter referred to as 'the Act') on recovery of 3120.120 litres of Indian made foreign liquor from the truck in question.

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 TATA DCM truck bearing registration no. HR-69C-1428, chasis no. MAT373370G2F15614, engine no. 697TC69FTY108253 in favour of the petitioner which has been seized in connection with Sahebganj P.S. Case No. 261/2017 instituted for offence under section 272, 273, 414, 34 of Indian Penal Code and section 30A, 32(II), 38(II), 41(I) 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.”

Learned counsel for the petitioner confines his prayer only for a direction for concluding the confiscation proceeding being Confiscation Case No. 235/17-18 pending since 2017



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 06.09.2017. The confiscation proceeding was initiated in 2017 being Confiscation Case No. 235/17-18 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. 235/17-18, arising out of Sahebganj P.S. Case No. 261 of 2017 and dispose of the same 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)

DKS/-

U			
---	--	--	--

