

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4480 of 2020

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Rijavan Khan Son of Late Rafeeka Khan, R/o Village - Taprana, P.S.-
Jhinjhana, District- Shamli (UP).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Prohibition, Excise and Registration Department, Govt. of Bihar, Patna.
2. The Collector-Cum-District Magistrate, Gopalganj.
3. The Superintendent of Excise, Gopalganj.
4. The Superintendent of Police, Gopalganj.
5. The Officer-in-Charge, Barauli Police Station, District -Gopalganj.
6. Sri Dharmendra Kumar Son of Late Akhileshwar Prasad , at present Posted as Officer-In-Charge, Barauli Police Station, District - Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ranjeet Kumar Pandey
For the Respondent/s : Mr.Kumar Manish (Sc5)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. KUMAR)

(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

Date : 10-07-2020

Heard learned counsel for the petitioner and learned
counsel for the State.

Petitioner has prayed for following reliefs:-

- (i) “For issuance of writ/writs, order/orders or direction/directions in the nature of mandamus directing the respondent authorities particularly respondent 2 to release Tata Truck bearing Registration No. HR 55 B 8023 in favour of the



petitioner which has been seized in connection with Barauli P.S. Case No.151/2018 under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

- (ii) For issuance of writ/writs, order/orders or direction/directions in the nature of mandamus directing the respondent authorities particularly respondent no.5 i.e., officer-in-charge, Barauli Police Station to hand over entire document of the Truck i.e., registration certificate, Insurance paper, permit and fitness certificate which was taken and kept by the informant at the time of alleged occurrence but till date neither those papers have been returned to the petitioner nor at the time of alleged occurrence seizure list with respect to those papers was prepared and the informant has kept papers of Truck in question illegally.
- (iii) For issuance of writ/writs, order/orders of direction/directions in the nature of certiorari for setting aside order dated 05.01.2019 passed in confiscation (Excise) Case No.317/18 by learned Collector, Gopalganj whereby and whereunder learned Collector has passed order of confiscation and directed to get the valuation of the vehicle done from the motor vehicle Inspector and then to sale the vehicle through auction, without serving notice of confiscation proceeding to the petitioner.”

It is submitted on behalf of counsel for the petitioner that no notice was served upon petitioner in confiscation (Excise) case No.317 of 2018 and the final order dated 5.1.2019 was passed ex parte without hearing the petitioner or any notice to the petitioner.



The writ petition is disposed of with liberty to the petitioner to file a recall petition in the court of confiscating officer-cum-District Collector, Gopalganj in Confiscation (Excise) Case No.317 /2018 in which final order was passed on 5.1.2019 by which the vehicle of the petitioner has been directed to be confiscated and on such petition being filed, the District Magistrate shall consider the petition with respect to proper service of notice on petitioner to enable him to participate in the proceedings and if the District Collector, Gopalganj arrives at a finding that no notice was properly served upon the petitioner in accordance with prescribed procedure then the final order dated 5.1.2019 passed in confiscation (Excise) Case No.317/18 shall be recalled by him and thereafter he would pass a fresh order after granting reasonable opportunity and hearing to the petitioner.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.07.2020
Transmission Date	NA

