

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8176 of 2020

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Juber Khan @ Juber, son of Majid, resident of House No. 555, Bhiwadi
Tapukra Road, Jhiwana, P.S. Bhiwadi, District- Alwar, Rajasthan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition, Government of Bihar, Patna.
2. The Excise Commissioner, Bihar, Patna.
3. The District Magistrate - cum- Collector, Gopalganj.
4. The Superintendent of Excise, Gopalganj.
5. The Inspector, Prohibition, Balthari Check-post, District- Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Satyabir Bharti, Adv
For the Respondent/s : Mr. Vikash Kumar SC-11

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

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 06-10-2020

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

Petitioner has prayed for the following relief(s):-

“(i) Issuance of writ of mandamus, direction the
respondents to forthwith release Truck bearing registration
No. RJ40GA2923, which even though was engaged in
lawful transport of 16538 Kilograms of Industrial Solvent
(SCB Organics-1) on the strength of valid documents has



been seized by the respondent no. 4 namely Inspector, Prohibition, Balthari, Check Post, District Gopalganj, in connection with Excise Case No.433 of 2019.

(ii) To restrain the respondents from initiating any proceeding for confiscation of the, seized in connection Excise Case No. 433 of 2019 Truck bearing registration No. RJ40GA292, as the consignment was lawfully transported.”

Petitioner is the owner of the Truck and was engaged for transporting 16538 Kgs of industrial solvent by the consignor M/s Pawar Chemicals, Mohali, Punjab, to consignee M/s Samrat Laboratories, Samastipur, Bihar, on a valid tax invoice. The said consignment alongwith vehicle was seized by the Excise Inspector, Gopalganj, alleging that the said consignment is denatured spirit which is prohibited in the State of Bihar and Excise Case No. 433 of 2019 was instituted under Seciton 30(a) of the Bihar Prohibition and Excise Act, 2016, against the driver, truck owner and the consignee as well as supplier and consignment as well as Truck was seized.

Consignee had challenged that State Government is incompetent to legislate with regard to denatured spirit as same does not come within the ambit of intoxicant and same was allowed by this Hon’ble Court by its order dated 12.02.2018 passed in CWJC No. 8519 of 2017. SLP preferred by the State of Bihar was dismissed, as such, storage, use, transportation and manufacture of industrial alcohol which includes denatured



spirit cannot be prohibited by the State Government as said commodity is not intoxicant and no prosecution can be lodged under the Excise Act.

Consignee had filed Cr.W.J.C No. 99 of 2020 for quashing the criminal prosecution in which by order dated 20.02.2020 this Court directed '*no coercive action to be taken against the petitioner*'

In the facts and circumstances of the present case, the District Magistrate cum Confiscating Officer, Gopalganj, shall provisionally release the vehicle in favour of petitioner on due identification and presentation of ownership papers. The concerned authority shall release the vehicle provisionally on the production of document of ownership and registration papers in his name with two sureties (one local) to the extent of the value of the vehicle as indicated in insurance document.

The petitioner while submitting the surety bond shall also furnish the following affidavit/undertakings:-

(i) That the petitioner shall not indulge in creating any third party right or interest in respect of the vehicle and shall not alienate the vehicle during this period till conclusion of proceeding.

(ii) The petitioner shall furnish an undertaking to produce the vehicle as and when required.



With the aforesaid observation and direction, this writ
petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.10.2020
Transmission Date	NA

