

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9016 of 2020

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Shailesh Yadav S/o Yugeshwar Yadav, Resident of Village- Samaspur, P.S.-
Kako, District- Jehanabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Bihar Prohibition and Excise Department, Bihar, Patna.
2. The Excise Officer, Bihar Prohibition and Excise Department, Nalanda.
3. The District Magistrate, Nalanda.
4. The Superintendent of Police, District of Nalanda, Bihar.
5. The Officer in charge of Hilsa Police Station, District- Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajeev Kumar, Adv.
For the Respondent/s : Mr. Vikash Kumar, S.C. 11

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

Date : 08-12-2020

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

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

Petitioner has prayed for following reliefs:-

(I) To issue an appropriate order/s, direction/s including a writ preferably in nature of certiorari for quashing the order dated 31.01.2020 passed by the court of learned District Magistrate-cum-Collector,



Nalanda in Confiscation (Excise) Case No. 11/2019 (State of Bihar V/s Shailesh Yadav) whereby and whereunder the learned District Magistrate order passed to confiscate the vehicle/pick up van of the petitioner bearing Reg. No.BR02W-9458, Chassis No. MAT445064EZH36209 and Engine No. 275IDI06HVYS82462 under Section 58(5) of the Bihar Prohibition and Excise Act and directed to Superintendent of Excise, Nalanda to start the process of public auction of alleged vehicle in connection with Hilsa P.S. Case No. 304/19 under Sections 272 and 273 of I.P.C. and Section 30(a) of Bihar Prohibition and Excise Act, 2016 lying in the premises of police station and subject to natural decay.

(II) For issuance of appropriate writ, order/direction commanding the respondents to release the pickup van of the petitioner in view of the order passed by this Hon'ble Court in C.W.J.C. No. 16529/19 a reasonable surety.

(III) Any other relief/s to which the petitioners are entitled in the facts and circumstances of the case.

Petitioner has filed present writ petition against the order dated 31.01.2020 passed by the learned District Magistrate-cum-confiscating authority in Confiscation (Excise) Case No. 11 of 2019 without exhausting the statutory remedy of appeal against the order as impugned.

The writ petition is disposed of with liberty to



petitioner to avail the statutory remedy of appeal against the order passed by the District Collector-cum-Confiscating authority and, if any, such appeal is filed within 30 days before the appellate authority, the delay in filing such appeal may be condoned, as the case remain pending before this Court and appellate authority shall decide the appeal on merit within 60 days from the date of filing of such appeal.

During pendency of this appeal, the seized vehicle shall not be auction sold.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.12.2020
Transmission Date	NA

