

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.327 of 2020

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Ram Manjhi son of Shravan Manjhi resident of Village- Banwaridih, P.O.
Mertha, P.S. Katoria, District- Banka.

... .. Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary, Excise Department,
Government of Bihar, Patna.
2. The District Magistrate Cum Collector, Banka.
3. The S.H.O, Banka Police Station, District- Banka.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Brij Nandad Prasad

For the Respondent/s : Mr.Vivek Prasad (GP 7)

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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)

3 04-02-2020 Heard learned counsels for the parties.

The present writ application has been filed for
quashing the order dated 25.9.2019 passed by the learned
Additional Sessions Judge II, Banka in connection with
Banka P.S. Case No. 619 of 2017 registered for the offences
under Sections 30(a) and 35(c) of the Bihar Prohibition and
Excise Act, 2016, whereby the petitioner's petition for
release of tractor bearing Registration No. BR51A 6709,



has been rejected. Further prayer has been made for issuance of a direction to the respondent authorities to release the vehicle in question of the petitioner.

The prosecution case, as per the self statement of Rakesh Ranjan Singh, Inspector -cum-SHO of Banka Police Station recorded on 27.9.2017 at 5.30 P.M. is to the effect that on the same day, a secret information was received that the tractor loaded with illegal liquor is coming whereupon the informant along with the other police officials proceeded when they saw a tractor coming, whereupon, he signalled to stop the tractor, but the driver escaped from the spot, leaving the tractor behind, leading to registration of Banka P.S. Case No. 619 of 2017.

It is submitted by learned counsel for the petitioner that the petitioner is the registered owner of the tractor in question and certificate of registration of the same has been brought on record as Annexure-2. It is further submitted that the tractor in question is rotting under the open sky and till date, confiscation proceeding has not been initiated.

This Court vide order dated 13.1.2020



adjourned the matter on the prayer of learned AC to GP 7 to seek instruction and file counter affidavit but till date, no counter affidavit has been filed. However, learned AC to GP 7 submits that she has received instruction to the effect that Confiscation Case No. 600 of 2019-20 has been initiated with regard to the tractor in question on 25.1.2020 on the proposal being sent to the District Magistrate.

Having heard learned counsels for the parties and considering their rival submissions, it appears that the writ application was registered on 7.1.2020, the matter was adjourned vide order dated 13.1.2020 on the prayer of learned AC to GP 7 to seek instruction and file counter affidavit but no counter affidavit has been filed though confiscation proceeding has been initiated on 25.1.2020 which suggests the lack of bonafide on the part of the authorities.

However, since the confiscation proceeding has already been initiated, we are not inclined to interfere with the order impugned but it is expected from the respondent no. 2, the Collector, Banka to conclude the confiscation proceeding within a period of six weeks from the date of receipt/production of a copy of this order.



Before we part with the order, we are constrained to observe that in spite of our direction to file counter affidavit, the same has not been filed till date and only on the basis of oral submission of learned counsel for the respondents we are disposing of the writ application. This suggests the callous manner in which the offices of the Collectors in the State of Bihar are functioning.

(Dinesh Kumar Singh, J)

(Anil Kumar Sinha, J)

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