

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.352 of 2020

=====

Dharmendra Kumar Singh son of Baleshwar Singh Resident of Village-
Bichhiaon, P.S. Sandesh, District- Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The District Magistrate-Cum- Collector, Bhojpur at Ara.
3. The Assistant Excise Commissioner, Bhojpur at Ara.
4. The Superintendent of Excise, Bhojpur at Ara.
5. The Superintendent of Police, Bhojpur at Ara.
6. The Vehicle Inspector, Bhojpur at Ara.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Rama Kant Singh
For the Respondent/s : Mr.Vivek Prasad (Gp7)

=====

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

Date : 09-07-2020

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) “For release the white colour XYLO Jeep/Vehicle bearing Registration No. DLIYC-7291, Engine No. JJB4K68464, Chasis No. MA1YA2JJKB2K37999 of the



petitioner, which has been got seized in connection with Sandesh P.S. Case No. 105/2017, registered for the offences punishable under Section 30(a), 56D of the Bihar Prohibition and Excise Act, 2016 on 24.07.2017, seized for the alleged violation of Excise Law.

(ii) For restraining the respondent-authorities from completion of confiscation proceeding against the petitioner's white colour XYLO Jeep/vehicle bearing Registration No. DLIYC-7291, Engine No. JJB4K68464, Chassis No. MA1YA2JJKB2K37999 of the petitioner, which has been got seized in connection with Sandesh P.S. Case No. 105/2017.”

Allegation is recovery of 177 litres of foreign liquor from the vehicle which was left abandoned by the occupants who on seeing the police fled away for which FIR was lodged giving rise to Sandesh P.S. Case No. 105 of 2017 dated 24.07.2017 instituted for the offences punishable under Section 30(a), 56 of Bihar Prohibition and Excise Act, 2016.

Petitioner claims to be the owner of the seized vehicle and as there has been recovery of illicit liquor from the vehicle, same is liable for confiscation under Section 56 of Excise Act.

Counter affidavit has been filed in which it has been stated that Superintendent of Police Bhojpur by letter dated



29.12.2017 recommended to initiate confiscation proceeding, upon which Confiscation Case No. 200 of 2017 has been initiated by the District Collector-Cum- Confiscating Officer, Bhojpur, Ara in respect of seized vehicle against registered owner Krishna Maurya, however, in spite of issuance of notice he did not appear and thereafter publication was made in the newspaper giving the registration number of the vehicle and its make, however, even thereafter none had appeared and final order was passed on 31.12.2019.

Petitioner claims to be the owner of the seized vehicle in support of which he has enclosed Screen Report of Transport Department in which his name appears as owner of the vehicle, however no notices were issued to him and in his absence final order has been passed in the confiscation proceeding.

The writ petition is disposed of with a direction to petitioner to file a petition for recall of order dated 31.12.2019 and upon such petition being filed the Collector shall examine the matter and if it is found that petitioner is the registered owner of the vehicle on the date of seizure and he was neither made a party nor any notice was issued to him, the Collector shall recall the final order and pass a fresh order after giving



petitioner reasonable opportunity to file his show cause and decide the matter after hearing both the parties. In the meantime, the vehicle shall not be auctioned sold.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	
Transmission Date	N.A.

