

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5506 of 2021

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Aman Kumar, Son of Kashmir Chand, Resident of House No. 325, Ward No. 119/8, Tibba Colony, Ratia, P.S.- Ratia, District- Fatehabad (Haryana),- 125051.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise, Government of Bihar, Patna.
2. The Principal Secretary, Home Department, Government of Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Excise Commissioner, Department of Excise, Government of Bihar, Patna.
5. The Inspector General of Police, Bihar, Patna.
6. The Collector-cum-District Magistrate, Gopalganj, District- Gopalganj.
7. The Superintendent of Police, Gopalganj, District- Gopalganj.
8. The Excise Superintendent of Police, Gopalganj, District- Gopalganj
9. The Station Head Officer (SHO)-cum Police Inspector, P.S.- Barauli, District- Gopalganj.
10. The Investigating Officer, Barauli, P.S. Case No. 259 of 2019, P.S.- Barauli, District- Gopalganj

... .. Respondent/s

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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.)

Appearance :

For the Petitioner/s : Mr. Nityanand Mishra, Advocate
For the Respondent/s : Mr. Vivek Prasad, G.P. 7

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

Date : 25-05-2021

Heard the parties.

Petitioner has prayed for following relief(s):-

I. "For issuance of an appropriate writ/writs,



order/orders, direction/directions in the nature of mandamus, commanding/directing the respondent authorities specially the Collector-cum-District Magistrate, Gopalganj (respondent no. 6) to release/hand over the seized Car (Sedan) bearing TOYOTA ETIOS vehicle Registration No. HR-59D 7654, Engine No. 1ND1A15874, Chassis No. MJB49BT800145689-1116 to the petitioner, which has been seized on 20.07.2019 by the S.H.O.-cum-Police Inspector, P.S. Barauli, District- Gopalganj (respondent no. 9) and kept for Exhibits by the police personnel in concerned police station in connection with the F.I.R. bearing Barauli P.S. Case No. 259/2019 dated 20.07.2019 (Annexure-9) for the offences under Section 30(a) of the Bihar Prohibition and Excise Act, 2016 which has been illegally lodged against the petitioner who is bonafide owner of the said vehicle.

II. For further commanding/directing the respondent authorities specially the Collector-cum-District Magistrate, Gopalganj (respondent no. 6) not to make auction of the said seized vehicle i.e. the Car (Sedan) bearing TOYOTA ETIOS GD vehicle Registration No. HR-59D-7654, Engine No. 1ND1A15874, Chassis No. MJB49BT80014568-1116 through the Confiscation Case No. 476/2019 which has been initiated regarding the said seized vehicle.

III. For further any other relief/reliefs for which the petitioner is entitled to in accordance with law.”

It has been submitted by learned counsel for the petitioner that final order of confiscation has been passed by the



confiscating authority in Confiscation Case No. 476 of 2019 and steps are being taken for auction of the confiscated vehicle although no notice of confiscation proceeding was ever served upon the petitioner.

However, it has been submitted by learned counsel for the State that the confiscated vehicle has already been auction sold and same has been purchased by the auction purchaser and possession of the vehicle has been handed over to him.

The writ petition is disposed with liberty to petitioner to file a petition for recall of *ex parte* order and if the confiscating authority comes to a finding on the basis of records that there was no proper and valid service of notice upon the petitioner, he may recall the *ex parte* order and shall pass a fresh order after affording opportunity to the petitioner to file his show cause and shall pass final order after hearing all the parties including the auction purchaser.

However, if the Confiscating Officer finds that in spite of valid service of notice, petitioner did not contest the proceeding, he shall dismiss the recall petition and petitioner shall have liberty to file appeal against the order of confiscation of the vehicle passed by the Confiscating Authority before the



Appellate Authority, who shall decide the appeal in accordance with law.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/rajiv-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.05.2021
Transmission Date	NA

