

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7385 of 2021

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Sujeet Kumar, Son of Vishwanath Pandit, Resident of Village-Sahjauli Ward
no. 07, P.S.-Parihar, District-Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the principal Secretary, Department of Excise and Prohibition and Registration Department, Govt. Bihar, Patna.
2. The Principal Secretary, Department of Excise and Prohibition and Registration Department, Govt. of Bihar, Patna.
3. The Excise Commissioner and Inspector General of Registration.
4. The District Magistrate, Sitamarhi.
5. The Superintendent of Police, Sitamarhi.
6. The Superintendent of Excise, Sitamarhi.
7. The Sub-Divisional Police Officer, Sitamarhi, Sadar.
8. The Police Inspector Cum-Officer In charge, Prohibition of Excise, Raiding Party, Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raja Ram Rai, 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 : 21-06-2021

Heard the parties.

Petitioner has prayed for following relief(s):-

“(i) That this is an application for issuance of a writ in the nature of certiorarified mandamus for quashing the order dated 19.12.2020 passed by District Magistrate, Sitamarhi in Confiscation Case No. 330/2020 after calling it from the Respondent no. 4 and to quash the same so far as it relates to the



vehicle of the petitioner bearing Registration No. BR 30U-8027 (Motorcycle) and the petitioner further prays for issuance of a writ in the nature of Mandamus commanding and directing the respondent authorities to release the vehicle of the petitioner which has been wrongly confiscated behind the back of the petitioner and/or to pass such other order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances stated hereunder.”

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. 330 of 2020 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	
Transmission Date	NA

