

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9105 of 2021

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Nirmal Kumar Son of Gandhi Devendra @ Gandhi Prasad Yadav @ Sri Gandhi Yadav, Resident of Village - Sakra Paharpur, P.S. Simri, Bakhtiarpur, District - Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate Madhepura, District - Madhepura.
2. The Commissioner, Koshi Division, Saharsa.
3. The District Magistrate, Madhepura, District - Madhepura.
4. The Superintendent of Police, Madhepura, District - Madhepura.
5. The Sub-Divisional Police Officer, Madhepura, District - Madhepura.
6. The Officer Incharge of Singheshwar Police Station, District - Madhepura.
7. Sri Sant Lal Singh, Son of not known, Sub Inspector of Police, Singheshwar Police Station, District - Madhepura and the Investigating Officer of Singheshwar P.S. Case No. 142/2017 dated 22.06.2017.
8. Sri Anil Kumar, Son of not known, Sub Inspector of Police Singheshwar Police Station, Informant of Singheshwar P.S. Case No. 142/2017.
9. The Excise Superintendent, Madhepura, District - Madhepura.

... .. Respondent/s

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(The proceedings of the Court are being conducted by Hon'ble the Chief Justice /Hon'ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences /offices.)

Appearance :

For the Petitioner/s	:	Mr.Bhim Kumar Yadav, Adv Mr. Mahendra Thakur, Adv
For the Respondent/s	:	Mr. Vivek Prasad, GP 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 : 01-07-2021

Heard learned counsel for the parties.

Petitioner has prayed for following relief(s):-

“(i) For quashing the order dated 03.11.2017 passed by the District Magistrate, Madhepura (respondent no.3) in connection with



Confiscation Case No.63/2017 whereby and where under the respondent no.2 has directed to confiscate the Scorpio of the petitioner, bearing its registration No.-BR-19C 5647, Chassis No. MAITA2 HANA2E 39246, Engine No. HAA4E32111, vehicle class: Jeep, Registration validity 01 July 2025, without considering the case of the petitioner.

(ii) For quashing the order dated 06.10.2020 passed by respondent no.2, by which he has dismissed the miscellaneous appeal no. 19/2020 filed by petitioner in terms of the order of this Hon'ble Court passed in CWJC No.17293/17 and CWJC No.3245 /17 dated 21.10.2020 and 18.01.2020 respectively without applying his judicial mind.

(iii) For direction to the respondent authority to release the Scorpio (Jeep) of the petitioner, details as stated above, which has been seized by the respondent no.8, in connection with Singheshwar P.S. Case No. 142/2017.”

It is submitted by learned counsel for the petitioner that petitioner had earlier approached this Court by filing CWJC No.17293 of 2017 which was disposed of in terms of CWJC No.3245 of 2017 vide order dated 21.01.2020 and petitioner on wrong advice, in place of Excise Commissioner, filed appeal before the Commissioner, Koshi Division, Saharsa and the same was dismissed by order dated 06.01.2020 finding the same to be not maintainable before this Court and petitioner prays that he may be permitted to avail the statutory remedy of appeal before the right forum, i.e. the Excise Commissioner.

Writ petition is disposed of with liberty to petitioner to avail the remedy of appeal against the confiscation order passed by the Confiscating Authority- cum- District Magistrate, before the Appellate Authority(Excise Commissioner) and if any such appeal is filed within 8 weeks then appellate authority shall



condone the delay in filing appeal as petitioner had approached the wrong appellate forum and shall decide the appeal on its own merit preferably within 8 weeks from the date of its filing.

During pendency of appeal, the confiscated vehicle shall not be auction sold, if not already auction sold.

With aforesaid liberty, the writ petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

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

