

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.17053 of 2017**

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Nand Kishore Poddar Son of Late Ramjiwan Poddar, Resident of D.N. Singh Road, Lakhi Babu Ka Bagicha Kharmanchak, P.S.- Kotwali, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Commissioner of Excise, Department of Excise and Prohibition, Govt. of Bihar, Patna.
3. The Deputy Commissioner of Excise, Bihar, Patna.
4. Superintendent of Excise, Bhagalpur.
5. District Magistrate, Bhagalpur.
6. Anchaladhikari, Jagdishpur, P.O. and P.S.- Jagdishpur, District- Bhagalpur.
7. Sub-Inspector of Excise, Office of Excise Superintendent, Bhagalpur.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Dr. Manoj Kumar, Advocate.  
For the Respondent/s : Mr. Vikash Kumar, SC-11

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARA)**

**Date : 06-01-2021**

Heard learned counsel for the petitioner and learned  
SC-11 for the State.

The petitioner has approached this Court for seeking  
following reliefs:

*“(i) For issuance of an appropriate writ/writs in  
the nature of writ of certiorari quashing the  
letter contained in Memo no.738 dated 28.10.17  
issued by Superintendent of Excise, Bhagalpur*



*(Respondent no.4) directing Anchaladhikari, Jagdishpur (Respondent no.6) to destroy the seized spirit within a week and report in this regard.*

*(ii) For issuance of an appropriate writ/writs in the nature of writ of mandamus directing concerned respondents to pay total cost etc of the seized spirit amounting to Rs.2,60,000/- (Two lakhs sixty thousand only) to the petitioner if same is destroyed.*

*(iii) Any other relief/reliefs for which petitioner is found to be entitled for.”*

Learned counsel for the petitioner submits that the petitioner was holding licence being Licence No.1/2003-04 for the wholesale of denatured spirit i.e. spirit which have been rendered unfit for human consumption and said licence was renewed up to year 2015-16. Subsequently, the Superintendent of Excise, Bhagalpur vide letter no.344 dated 26.03.2016 informed the petitioner that after 31<sup>st</sup> of March, 2016, the licence will be deemed to have been cancelled as in view of new Excise Rule, licence will not be renewed from 1<sup>st</sup> April, 2016. He further submits that petitioner during subsistence of licence and after proper sanction of the concerned authority had purchased 12,000 liters of denatured spirit (commonly used for painting in furniture) after depositing proper cost etc.



On the other hand, learned counsel for the State submits that there is a provision of appeal under Section 92 of the Bihar Prohibition and Excise Act, 2016 and the petitioner may be relegated to file an appeal for redressal of his grievance.

This writ petition is disposed of with liberty to petitioner to file a detailed representation enclosing judgment and order passed by this Court as well as Apex Court before respondent no.5, the District Magistrate, Bhagalpur for redressal of his grievance and the same shall be considered by the District Magistrate, Bhagalpur after condoning the delay, if any, in preferring this appeal, in accordance with law and pass a reasoned and speaking order within 30 days from the date of filing of such representation.

**(Sanjay Karol, C.J.)**

**(Anjani Kumar Sharan, J.)**

Trivedi/-

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| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
| Uploading Date    | 11.01.2021 |
| Transmission Date | NA         |

