

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14447 of 2021

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Balwant Tiwari Son of Late Kalika Tiwari Resident of Village- Semara,
Police Station- Sahabganj, District- Chandauli, (Uttar Pradesh).

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Excise Department, Govt. of Bihar, Patna.
3. The Excise Commissioner, Govt. of Bihar, Patna.
4. The Collector-cum-District Magistrate, Kaimur at Bhabua.
5. The Superintendent of Police, Kaimur at Bhabua.
6. The Inspector of Excise, Chand, Kaimur at Bhabua.
7. The Police Sub Inspector-cum-Officer In-Charge, Chand Police Station,
Kaimur at Bhabua.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Umesh Kumar Mishra, Advocate
For the Respondent/s : Mr. Prashant Kumar, AC to SC 5

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

**(The proceedings of the Court are being conducted through
Video Conferencing and the Advocates joined the proceedings
through Video Conferencing from their residence.)**

Date : 24-08-2021

Heard learned counsel for the parties.

Petitioner has prayed for following relief:-

I. For issuance of an appropriate writ in the nature of
certiorari for quashing the order dated 17.06.2021 passed by
the District Magistrate, Kaimur (Bhabua) in Excise (Vehicle
Confiscation) Case No.69/2021 (State vs. Balwant Tiwari and

others) by which, he has confiscated the vehicle of the petitioner bearing registration no. UP67Z-6087 (Bolero), which has been seized in connection with Chand P.S. Case No.36/21 dated 06.03.2021, instituted for the offences under Sections 30(a)/37(i) of the Bihar Prohibition and Excise (Amended) Act, 2018 and directed Superintendent, Excise kaimur (Bhabhua) to auction the aforesaid vehicle within two months and deposit the auction money in the Treasury, Kaimur by way of challan, without considering the fact that there is no recovery of liquor from the aforesaid Bolero vehicle of the petitioner and there is nothing to show that the vehicle in question was used in transportation or sale and purchase of liquor.

II. For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to release the Bolero vehicle of the petitioner bearing Registration No. UP67Z-6067, Chassis No.MA1XL2WJXK5E429347, Engine No. WJK6E40878, which has arbitrarily been seized by the Chand Police Station, District- Kaimur at Bhabhua in connection with Chand P.S. Case No.36/21 dated 06.03.2021.

III. For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner will be found entitled in the facts and circumstances of the

case.”

Petitioner has approached this Court without exhausting the statutory remedy of appeal against the impugned order, as such, petitioner is granted liberty to avail the remedy of appeal against the confiscation order passed by the Confiscating Authority- cum- District Magistrate, before the Appellate Authority and if any such appeal is filed within 4 weeks then appellate authority shall condone the delay in filing the appeal 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 property/ 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)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.08.2021
Transmission Date	NA