

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2113 of 2021

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Lalti Kumari D/o Jodhan Manjhi, W/o Nandkishor Manjhi, Resident of Village- Nauniya, P.S.- Mohanpur, District- Gaya. At present resides at her Sasural Village- Teshwar, P.S.- Mohanpur, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Bihar, Patna.
2. The District Magistrate, Gaya, Bihar.
3. The Senior Superintendent of Police, Gaya, Bihar
4. The Officer Incharge of Barachatti Police Station, District- Gaya, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Arvind Kumar Singh, Advocate
For the Respondent/s : Mr.Kumar Manish, S.C. 5

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 23-03-2021

Heard learned counsel for the petitioner and

learned counsel for the State.

Petitioner has prayed for the following reliefs: -

no notice even till date has been served to the petitioner with regard to initiation of confiscation proceeding from the court of learned the District Magistrate, Gaya.”

Learned counsel for the petitioner prays that the petition be disposed of in terms of order dated 9th January, 2020 passed in **CWJC No. 20598 of 2019 titled as Md. Shaukat Ali Vs. The State of Bihar** and subsequent order dated 14th January, 2020 passed in **CWJC No.17165 of 2019 titled as Umesh Sah Versus the State of Bihar & Ors.** and order dated 29.01.2020 passed in **CWJC No.2050 of 2020 titled as Bunilal Sah @ Munilal Sah.**

Learned counsel for the respondents has no objection to the same.

The Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the Act) prohibits the manufacture, storage, distribution, transportation, possession, sale, purchase and consumption of any intoxicant or liquor, unless so allowed in terms of the Act. (Section 13).

In addition to the penalty imposed for committing such an offence, Section 56 of the Act lays down the procedure for confiscation of “things” used for in the commission of such an offence. The said Section reads as under:



“56. Things liable for confiscation.-

Whenever an offence has been committed, which is punishable under this Act, following things shall be liable to confiscation, namely-

- (a) Any intoxicant, liquor, material, still, utensil, implement, apparatus in respect of or by means of which such offence has been committed;
- (b) any intoxicant or liquor unlawfully imported, transported, manufactured, sold or brought along with or in addition to, any intoxicant, liable to confiscation under clause (a);
- (c) any receptacle, package, or covering in which anything liable to confiscation under clause (a) or clause (b), is found, and the other contents, if any, of such receptacle, package or covering;
- (d) any animal, vehicle, vessel or other conveyance used for carrying the same.
- (e) Any premises or part thereof that may have been used for storing or manufacturing any liquor or intoxicant or for committing any other offence under this Act.

Explanation.- The word “premises” include the immovable structure, all moveable items within the structure and the land on which the premises is situated.”

Under section 58 power to issue an order of confiscation vests with the District Collector/Authorized officer, who upon receipt of the report of the seizing officer detaining



such property (“things”) is required to pass an order.

This Court has been flooded with several petitions solely on account of non-initiation of such proceedings of confiscation or passing of illegal orders with respect thereto. Also, on account of lack of parties pursuing the remedies so provided under the Act.

Consequently, the court was faced with the following fact situations:- (a) where despite seizure, no proceedings for confiscation under Section 58 were initiated; (ii) where such proceedings were initiated but not concluded within a reasonable time; (c) the parties after obtaining interim relief for release of “things” under orders passed in different set of writ petitions, did not participate in the confiscatory proceedings; (d) where the order of confiscation was neither communicated nor the parties made aware of such fact, thus precluding them from filing appeal under Section 92 and Revision under Section 93 of the Act; (e) proceedings initiated under Section 92/93 were not concluded within a reasonable time either on account of inaction on the part of the authority(s) or on account of non-cooperation of the private parties, be it for whatever reason.

Resultantly, this Court from time to time has been



