

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17433 of 2021

1. Dinanath Mahto, Son of Bhagwan Das Mahto, Resident of Bahari Begumpur, Paar Pokhara, Sampatchak, Patna- 800009.
2. Avinash Kumar @ Raju Son of Dinanath Mahto Resident of Bahari Begumpur, Paar Pokhara, Sampatchak, Patna- 800009.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Excise Department, Bihar, Patna.
2. The Additional Chief Secretary, Excise Department, Bihar, Patna.
3. The Deputy Director, Home Department, Government of Bihar, Patna.
4. The Excise Commissioner, Patna, Bihar.
5. The Collector-Cum- District Magistrate, Patna.
6. The Senior Superintendent of Police, Patna.
7. The Excise Superintendent, Patna.
8. S.H.O, Bypass Police Station, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Nikhil Kumar Agrawal Mr. Shubham Bajaj, Advocates
For the Respondent/s	:	Mr.Vivek Prasad (Gp7) Ms. Roona, AC to GP 7

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 06-10-2021

Heard learned counsel for the parties.

Petitioners have prayed for following reliefs:-

“(i) To issue an appropriate writ / order / direction

in the nature of certiorari quashing the order dated 16.07.2021 as contained in Memo No.1281 dated 03.09.2021 (Anx-4) issued by the Respondent No.5 in confiscation case No.2348/2020-21 whereby and whereunder the sole dwelling house of the petitioner no.1 has been illegally confiscated in connection with Bypass P.S. Case No.38/2021.

(ii) To issue an appropriate writ / order / direction in the nature of Mandamus restraining the respondents from sealing and taking over the possession sole dwelling house of the petitioner.

(iii) To any other relief or reliefs for which the petitioner is found entitled to in facts and circumstances of the case.”

Petitioners have approached this Court without exhausting the statutory remedy of appeal against the impugned order, as such, petitioners are 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/-
Ashwini

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.10.2021
Transmission Date	NA