

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17912 of 2021

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Akhil Kumar, Son of Ramjiwan Rai, Resident of- Khagaul Kothwa, P.S.-
Khagaul, District- Patna

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Registration Excise and Prohibition Department, Government of Bihar, Patna
2. The Commissioner Excise, Registration Excise and Prohibition Department, Government of Bihar, Patna
3. The District Collector, Patna
4. The Superintendent of Police, Patna
5. The Officer Incharge, Kadam Kuan Police Station, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ayush Kumar, Advocate
For the Respondent/s : Mr.Vikash Kumar (SC-11)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 10-12-2021

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s).

“i) For setting aside order dated 09.08.2021 (extent to the petitioner) passed by the learned District Collector, Patna whereby he has altogether concluded 13 confiscation proceeding vide common order, petitioner is concerned with Confiscation Case No. 1145 / 2021-21 placed at Serial No. 5, whereby and where under learned District Collector, has ordered to confiscate the petitioner's Mahindra Scorpio vehicle bearing Registration No. BR1PL-2326, Chassis No. MA 1TA2SJXJ2M15304, Engine No. SJJ4L along

with other vehicles under section 58(2) of the Bihar Prohibition and Excise Act and further ordered for initiation for procedure of auction under Section 58 (5) of the Bihar Prohibition and Excise Act which has here passed mechanically, without application of mind and non speaking.

ii.) For a direction upon the concerned respondent to release the vehicle (Mahindra Scorpio) of the petitioner bearing Registration No. BR1PL-2326, Chassis No. MA1TA2SJXJ2M15304, Engine No. SJJ4L 13050 which was seized in connection with FIR bearing Kadamkuan PS case No. 186/2020 in view of the fact that no illicit liquor has been recovered from alleged vehicle and also in terms of Judgment and order dated 25-01-2021 passed in CWJC No. 443 of 2021 wherein the Hon'ble Court has observed that proceeding initiated under Section 58 of Bihar Prohibition and Excise Act be concluded within a period of ninety days from the date of appearance of tire parties. The Hon'ble Court has further observed that failing which the vehicle/property/things liable for confiscation shall be deemed to have been released without any further reference to this court.

(iii) For any other relief for which the petitioner may be deemed entitled to."

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 8 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 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)

Rajiv/veena-

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