

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3067 of 2021

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Birendra Kumar, S/o - late Madan Prasad Tiwary, R/o - Kamal Nagar Colony,
Mirjanhat, P.S. - Babbargunj, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Bihar Patna.
2. The Principal Secretary, Prohibition, Excise and Registration Department,
Government of Bihar, Patna.
3. The Collector cum- District Magistrate, Banka.
4. The Superintendent of Police, Banka.
5. The Excise Superintendent, Banka.
6. The District Transport officer, Banka.
7. The Officer in in-Charge, Chandan Police Station, Banka.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Swapnil Kumar Singh, Advocate
For the Respondent/s : Mr. A.C. to A.G.

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 26-03-2021

Heard the parties.

Petitioner has prayed for following relief(s):-

“(i) For issuance of an appropriate writ of certiorary, order and/or direction for quashing the dated 10.07.2020 passed by the respondent Collector, Banka in Confiscation Case No. 60/2020 by which he has most arbitrary and quite erroneously confiscated the father’s (now died) Scorpio vehicle bearing registration no. BR 10PA-5597 (hereinafter referred to as



vehicle only without considering the show cause of the applicant and further directed to sold it in open bid and deposit the money realize there from.

(ii) For issuance of an appropriate writ, order and/ or direction in the nature of writ of mandamus directing the respondent authorities to release vehicle in favour of the petitioner which was seized by police in connection with Chanan P.S. Case No. 39/20 for alleged offence under Section 30(a) (g)/32(2) of Bihar Prohibition and Excise Act, 2016.

(iii) To grant such other consequential relief(s) to the petitioner for which this Hon'ble Court may find the petitioner to be entitled to in equity and/or in law in the facts and circumstances of the case.”

Petitioner has filed this writ petition for setting aside the order dated 10.07.20 passed by Collector, Banka in confiscation case no. 60/2020 by which the vehicle registered in the name of Late father of petitioner has been ordered to be confiscated and put on public auction for sale.

Petitioner has approached this Court without exhausting statutory remedy of appeal/revision against the order passed by the Confiscating Authority, as such, writ petition is disposed of with liberty to petitioner to avail the remedy of appeal against the impugned order and, if any, such appeal is



filed within four weeks, the appellate authority shall condone the delay in filing appeal and shall decide the appeal within eight weeks from the date of its filing.

The confiscated vehicle shall not be auction sold during pendency of appeal/revision, if not already auction sold.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.04.2021
Transmission Date	NA

