

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2393 of 2022

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Harinath Son of Viran R/O Village - Gopalpur, P.S. - Salempur, District - Deoria (UP).

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Prohibition, Excise and Registration Department, Govt. of Bihar, Patna.
2. The Collector - cum- District Magistrate, Siwan.
3. The Deputy Collector Land Reforms, Siwan Sadar, District- Siwan
4. The Superintendent of Excise, Siwan.
5. The Superintendent of Police, Siwan.
6. The Officer - in - Charge, Guthani Police Station, District- Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ranjeet Kumar Pandey, Advocate

For the Respondent/s : Mr.Kumar Manish (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 : 22-04-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s).

- (i) For issuance of writ/writs, order/orders or direction/directions in the nature of certiorari for setting aside order dated 02.07.2021 passed in Excise Act Case, No. 154/2019-20 (arising

out of Guthani P.S Case No. 201/2020) by learned Deputy Collector Land Reforms, Siwan Sadar whereby and where under order for confiscation of pickup vehicle of the petitioner bearing registration no. UP52T 9843 has been passed in clear violation of order dated 22.06.2021 passed in C.W.J.C No., 7396 of 2021 by Hon'ble Division Bench.

- (ii) For issuance of writ/writs, order/orders or direction/ directions in the nature of mandamus directing the respondent authorities to release pickup vehicle bearing registration no. UP52T 9843 in favour of the petitioner which has been seized in connection with Guthani P.S No.

201/2020 U/S 30(a) of Bihar Prohibition and Excise Act 2016.

- (iii) For any other relief/reliefs for which the petitioner may be found entitle in the eye of law and in the facts and circumstances of the case may also be granted in favour of the petitioner.

Petitioner is the owner of the pick-up van which was

seized in connection with Guthani PS Case No. 201 of 2020 for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016, wherein it is alleged that 5.800 litre of illicit liquor was recovered from the vehicle of petitioner concealed in a plastic bag containing paddy.

It appears from the ordersheet enclosed as Annexure-5 that on recommendation of S.P. Siwan vide letter dated 14.02.2021 confiscation proceeding being Confiscation Case No. 154 of 2021 was initiated against the vehicle of petitioner and notices were issued. From the impugned order dated 02.07.2021 it appears that paper publication was made for appearance on 28.06.2021 and ex parte order was passed on 02.07.2021.

It is submitted that the impugned order was passed ex parte without notice to petitioner as he is resident of Uttar Pradesh, as such he was not aware of any paper publication made in the daily Newspaper published within the State of Bihar.

Having heard learned counsel for the parties, this Court finds that apart from the order being passed ex parte, the order is not a speaking order and no reason has been assigned for passing such order nor there is any report of the chemical

analyst that the seized illicit liquor is intoxicant nor there is any discussion of any evidence produced on behalf of department in support of its case for confiscation of the vehicle.

In said view of the matter, the impugned ex parte order dated 02.07.2021 as contained in Annexure-1 passed by the confiscating authority Siwan, passed in Confiscation Case No. 154 of 2019-20 State Vs. Pradeep Yadav is set aside and the matter is remanded to the Confiscating Authority, Siwan, to pass a fresh order after giving reasonable opportunity to the petitioner to file his show cause and thereafter to pass a fresh order after hearing and affording reasonable opportunity to the parties concerned.

However, it shall be open for the petitioner to avail the remedy under the amended Act/Rules to get his/her vehicle released on payment of penalty.

Accordingly, 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