

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3891 of 2022

=====

Ambrish Padmanabh Son of Late Anirudha Mishra Resident of Village -
Hasanpur, P.O. - Dariapur, P.S. Mufassil, District- Munger.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Registration Excise Prohibition Department, Government of Bihar, Patna.
2. The District Magistrate - cum Collector, Munger.
3. The Sub- Divisional Public Complaint redressal officer, Munger.
4. The Senior Superintendent of Police, Munger.
5. The Excise Superintendent, Munger.
6. The Sub- Inspector, cum SHO, Asarganj Police Station, Munger.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Nand Gopal Mishra, Advocate
For the Respondent/s : Mr.Kumar Manish (Sc5)

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 10-03-2022

Heard learned counsel for the parties.

Petitioner has prayed for following reliefs:-

“The present writ petition is directed against the notification dated 28.02.2022 issued from the Collector/Munger (Prohibition and Excise Department) under the signature of Collector and Excise Superintendent Munger, whereby seized vehicles, seized under Section 30(a)/32 of Bihar Prohibition and Excise (Amendment) Act 2018, has been put on auction sale to be held on 15.03.2022, 23.03.2022 and 31.03.2022.

(I) To quash the notification dated 28.02.2022 to the extent it relates to auction sale of petitioner’s vehicle Swift Dzire (Car) bearing registration

No.BR09AA-1349 and placed in the list of vehicles attached with the notification at Sl. No.187 and direct the respondents to release the vehicle forthwith.

(ii) To stay the proceeding of auction sale of petitioner's above mentioned vehicle, during the pendency of this case.

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

On specific statement made by learned counsel for the petitioner that the seized vehicle of the petitioner under the Excise Act has been put on auction without any final order being passed by the confiscating authority, this Court summoned the original record of the proceeding and same was produced before this Court by the learned counsel for the State and perusal of which reveals that the vehicle of petitioner was seized by the police and from said vehicle, 27 liter of foreign liquor was recovered giving rise to Asarganj P.S. Case No.2/2021 dated 10.01.2021 registered for the offences under Section 30(A), 32 of Bihar Prohibition and Excise Act.

Petitioner has earlier approached this Court for provisional release of vehicle by filing CWJC No.10239 of 2021 (Ambrish Padmanabh versus the State of Bihar and Ors.) and same was disposed of on 8.7.2021 with direction to the confiscating authority to initiate confiscation proceeding and conclude the same within a specified period of 90 days.

Confiscation Case No.1 /2021-22 was initiated against the said vehicle of petitioner and petitioner appeared before the confiscating authority through his counsel on 16.07.2021 and next date was fixed on 29.07.2021 when petitioner was directed to file his show cause and case was adjourned for 13.08.2021 on which date, it was recorded that show cause has been filed by petitioner on 29.7.2021 and case was adjourned for 17.9.2021 on which date although, the attendance on behalf of petitioner was filed but when the matter was called out, none appeared on behalf of petitioner and case was adjourned for 21.9.2021 and case was fixed for hearing on 23.10.2021, however, neither petitioner nor his counsel was present when the matter was called out and case was adjourned for hearing on 22.11.2021 and on said date also, none appeared on behalf of petitioner and the case was adjourned on 8.12.2021 and on said date also, none appeared on behalf of petitioner and the case was adjourned for hearing on 24.12.2021 and on said date also, there was no representation on behalf of petitioner and the confiscating authority observed that Hon'ble Patna High Court has directed for early disposal of the confiscation case and, as such, the case was fixed for ex parte hearing and on the basis of material available on record, final order of confiscation dated

24.12.2021 was passed by the confiscating authority and the vehicle of petitioner was directed to be confiscated.

In said view of the matter, the present petition is misconceived and amounts to abuse of process of court and is, accordingly, dismissed. However, present order shall not preclude petitioner to avail the statutory remedies of appeal and revision against the order passed by the confiscating authority.

Let the original records of confiscation proceeding produced by the learned counsel for the State be returned to him.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.03.2022
Transmission Date	NA