

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4739 of 2022

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Mukesh Kumar Son of Bijali Rai @ Ram Dular Ray Resident of Village
Sabnima Budhara P.S. - Athmalgola District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Home Department,
Bihar, Patna.
2. The Principal Secretaary, Home Department, Bihar, Patna.
3. The Collector Cum District Magistrate, Munger.
4. The Superintendent of Excise, Munger.
5. The Excise Officer, District- Munger.
6. The Assistant District Magistrate - cum- Confiscation Officer, Excise,
Munger.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Ms.Usha Kumari Singh, Advocate
For the Respondent/s	:	Mr.Kumar Manish (S.C.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 : 06-05-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

“(I) For issuance of an appropriate writ order or
direction in the nature of mandamus commanding to the
respondents concerned especially to the District
Magistrate, Munger (Respondent no-3) not to put
the Truck of the Petitioner bearing Registration no
BR01 GD 8991 Engine no 4I D84160535 Chasis no

MBYBC0094EFA35149 for the auction after passing the order dated 08.12.2021 in confiscation case no 19/2021 on the ground the order passed in confiscation case is illegal order and the order of confiscation was neither communicated to the petitioner nor made aware of such fact and precluding the petitioner from filing appeal under section 92 and Revision under section 93 of Bihar prohibition and Excise Act 2016 (hereinafter referred to as the Act) as per direction of the Hon'ble High court Patna passed on 22-02-2021 in CWJC no 3028/2021 filed by the Petitioner.

(II) For any other relief for which the petitioner may be found entitled to, under the facts and circumstances of the case, be passed as your Lordships may deem fit and proper in the interest of justice.”

Shri Kumar Manish, learned counsel for the respondents undertakes to supply copy of the order passed by the authority to the learned counsel for the petitioner during next two working days. Petitioner through learned counsel undertakes to prefer an appeal under the Statute within a period of one week thereafter.

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 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.

Petitioner shall also have option to get his vehicle released on payment of penalty in view of insertion of Rule 12(A) by amending the Bihar Prohibition and Excise Rules, 2021.

The writ petition is disposed of in the aforesaid terms.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/rajiv-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	