

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6154 of 2022

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Roopendra Singh Bhadauria @ Roopendra Singh, son of Ravindra Singh
Bhadauria, resident of Mohalla-Saraswati Nagar, Bhind, Ward No.-35, Police
Station-City Kotwali, District-Bhind, Madhya Pradesh.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise,
Patna.
2. The Principal Secretary, Department of Excise, New Secretariat, Patna.
3. The Collector-cum-District Magistrate, Gopalganj.
4. The Superintendent of Police, Gopalganj.
5. The Police Inspector, Prohibition and Excise, Balthati Check Post,
Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Vikas Kumar Jha, Advocate

For the Respondent/s : Mr.Vivek Prasad (Gp 7)

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

Date : 10-05-2022

Heard learned counsel for the parties.

Petitioner has prayed for following relief:-

- (i) For issuance of an appropriate writ(s) in the nature of *Certiorari*, quashing the harsh conditions imposed in order of the Additional Chief Secretary Cum-Revisional Authority Bihar, Patna in Excise Revision No. 86/2022 dated 02.04.2022, by which the vehicle in question has been released by imposing harsh conditions of the penalty amount 50% of the insurance value of the vehicle, which will not be refundable in subject to the decision of the trial court in excise case no. 61/2021 which are purely arbitrary and illegal conditions.
- (ii) For issuance of an appropriate writ(s), commanding the respondents to release the Bus No. **UP75AT2111**, Engine No. **61G84323309**, Model No. 2016, Chassis no. **MAT476102G0H05659** seized in connection with Excise Case No. 61/2021 dated 23.02.2021, registered for the alleged offense Under Section 30(a) of Bihar Prohibition & Excise Act, 2016 without any condition.
- (iii) For any other relief/reliefs for which the petitioner is entitled for.

Allegation is recovery of 63.480 litre of illicit liquor from the Bus which is owned by the petitioner. The illicit liquor was recovered from the luggage of 1 passenger Aadesh Kumar

Singh and thereafter driver, co-driver and said passenger was apprehended by the police giving rise to Excise Case No. 61 of 2021 of Gopalganj. On the recommendation of Excise Superintendent, Confiscation Case No. 525 of 2021 was initiated against the seized Bus of which notice was issued to the petitioner being owner of the Bus.

After hearing the parties and considering the materials available on record, the Bus was directed to be confiscated by the District Collector, Gopalganj vide its order dated 18.11.2021 and appeal preferred against the said order also stood dismissed and revision preferred before the Revisional Authority was also dismissed and Revisional authority directed petitioner to get his vehicle released after paying 50 per cent penalty of the insured value of the Bus.

The only submission made on behalf of petitioner is that the Collector vide its order dated 18.11.2021 directed Motor Vehicle Inspector for valuation of seized Bus and to auction it and deposit the sale proceeds in the Government account. However, the Revisional Authority has directed petitioner to pay penalty of 50 per cent of the insured value of the Bus which is at higher side and he should be permitted to pay the penalty as 50 per cent of the valuation done by the MVI of the seized Bus.

Heard learned counsel for the parties and perused the materials available on record, and in view of the fact that the seized Bus was a passenger Bus and recovery was made from the luggage of a passenger who had kept the illicit liquor beneath his seat and the Bus was seized on 23.02.2021 which remained parked in police station for more than 1 year, the order dated 12.04.2022 passed by the Additional Chief Secretary, Bihar, Patna the Revisional Authority, is modified to the extent that petitioner shall pay the penalty as 50 per cent of valuation of Bus as done by the motor vehicle inspector, pursuant to order dated 18.11.2021 passed by the Collector, Gopalganj.

With aforesaid modification in the order dated 12.04.2022 passed by the Revisional Authority in Excise Revision Case No. 86 of 2020-22, the writ petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.05.2022
Transmission Date	NA