

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8247 of 2022

Baleshwar Mahto Son of Late Sohray Mahto, resident of Village - Sarilchak,
P.S. - Nalanda, District - Nalanda, PIN - 803111.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Additional Chief Secretary-cum-Revisional Authority, Bihar, Patna.
3. The Excise Commissioner-cum-Appellate Authority, Patna.
4. The District Magistrate-cum-Confiscation Authority, Nalanda.
5. The Additional Collector-cum-Additional District Magistrate, Nalanda.
6. The Superintendent of Police, Nalanda.
7. The Superintendent of Excise Police, Nalanda.
8. The Station House Officer, Nalanda P.S., Nalanda.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Anil Kumar, Advocate
For the Respondent/s	:	Mr. Vikash Kumar (SC- 11)

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 : 08-07-2022

Heard learned counsel for the parties.

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

- (I) For quashing the order dated 24/03/2022 passed by the Additional Chief Secretary-cum-Revisonal Authority, Bihar, Patna in Excise Revision No. 76 of 2022, by which the Revisonal Authority has allowed to be released the Agriculture Land of petitioner (herein after it called "the Land-in-Question") upon payment of Rs. 2,00,000/-(two lakh rupees only), the Land-in-Question was confiscated by the Order dated 20/12/2021 passed by the Respondent No. 6 in Excise Confiscation Case No. 434 of 2021 arising out of Nalanda P.S. Case No. 100 of 2021 dated 19/07/2021.
- (II) For quashing the order dated 28/01/2022 passed by the Respondent No. 4 in Excise Appeal No. 47 of 2022 by which he has affirmed the order dated 20/12/2021 passed by the Respondent No. 6 in Excise Confiscation Case No. 434 of 2021 arising out of Nalanda P.S. Case No. 100 of 2021 dated 19/07/2021.
- (III) For quashing the order dated 20/12/2021 passed by the Respondent No. 6 in Excise Confiscation Case No. 434 of 2021 arising out of Nalanda P.S. Case No. 100 of 2021 dated 19/07/2021 by which the land of petitioner has been confiscated under the

Allegation is recovery of 28.12 litres of foreign liquor from the straw and bush.

It is an admitted fact that 28.12 litres illicit foreign liquor was recovered from the vacant land of petitioner which is situated at a distance of 2 kilometer from his residence. Petitioner is not accused in the excise case. In the FIR also, allegation is against accused Sohan Choudhary to have kept illicit liquor in the straw and bush of vacant land of petitioner. All the authorities have held that since illicit liquor has been

recovered from the vacant land of petitioner, as such, said land is liable for confiscation. However, petitioner could not rebut the presumption as contemplated under Section 32 (3) of the Excise Act, according to which, owner or occupier thereof would need to account satisfactorily, and in the absence of satisfactorily explanation, it will be presumed that offence has been committed and the vacant land is liable for confiscation.

Having heard learned counsel for the parties, we modify the order dated 24.03.2022 passed by the Additional Chief Secretary, Excise Department, Government of Bihar in Excise Revision No. 76/2022 (Annexure-5) only to the extent that the premises in question be released upon payment of penalty of Rs. 1,00,000/- (one lac only).

The instant petition stands disposed of with the aforesaid modification in the impugned order.

Learned counsel for the respondents undertake to communicate this order to the appropriate authority.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/rajiv-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	