

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8245 of 2022

=====

Mukesh Kumar @ Mukesh Das S/o Lalbabu Das Resident of Village- Rampur
Jaypal, Ward No.- 14, P.S.- Bochha, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar Through Addl. Chief Secretary, Excise Department, Govt. of Bihar, Patna.
2. The Commissioner Prohibition and Excise, Govt. of Bihar, Patna.
3. The District Magistrate-cum- Collector Muzaffarpur.
4. The S.S.P. Muzaffarpur Muzaffarpur.
5. The S.H.O. Excise Officer Muzaffarpur.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Priyesh Kumar, Advocate
For the Respondent/s : Mr.Vivek Prasad (G.P. 7)

=====

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 issuance of writ in the nature of certiorari for quashing the order dated 30.04.2022 passed in Excise

Revision No. 110/2022 by the learned Addl. Chief Secretary Excise Department Bihar Patna, alongwith order dated 07.03.2022 passed in Excise appeal case no. 102/2022 by the learned Excise Commissioner Excise Department Govt. of Bihar Patna and, order dated 10.03.2021 passed in Excise confiscation case no. 81/2020-21 passed by the learned Deputy Collector cum Addl. District Magistrate Muzaffarpur whereby and hereunder the house/ land of the petitioner appertaining to Mauja Muradpur Bharat, Thana no. 644, Khata No.164, Khesra No. 253 having an area 0.09 decimal has been confiscated in term of section 13,30,56, and 58 of the Bihar Prohibitions and Excise Act which

was allegedly seized in connection with Excise Case No. 129/20202 P.R. 40 26/2020 dated 01.09.2020 registered for the offences punishable u/s 30(a), (c) (d) (f) 33 and 36 of the Bihar Prohibitions and Excise Act.

Certified order dated 30.04.2022 and photocopy/ typed copy of order dated 07.03.2022 and 10.03.2021 marked as Annexure-1,2 and 3 Respectively marked as Annexure-1, 2 and 3 to this writ application.

For any other relief/ reliefs is petitioner found entitled in the fact and circumstances of the present case.

Allegation is recovery of 43.920 litres of Indian made Foreign Liquor, 35 litres of spirit and 8 litres of illegal wine from the premises of petitioner.

It is submitted that the premises is ancestral and joint property of co-sharer. The part of premises (.09 decimal) is

liable for confiscation as there has been recovery of huge illicit liquor from the said place. No satisfactory explanation has been given with respect to possession of such illicit liquor, as such, all the authorities have found part of premises liable to be confiscated. No infirmity or error in the order dated 30.04.2022 passed by learned Additional Chief Secretary could be brought to the notice of this Court, as such, no interference is called for in the impugned order.

However, during pendency of this petition, there has been amendment in the Bihar Excise Act and the Rules and provision has been made for release of the premises on payment of penalty under Rule 12 B of the Excise Rules.

The writ petition is disposed of with liberty to the petitioner to approach the Confiscating Authority and avail benefit of amended rules.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/rajiv-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	