

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14095 of 2022

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Puttan Son of Chhuttan Resident of Village- Hindor, Sujawali, P.S.-
Sahshwan, District- Budaun, Uttar Pradesh- 243638.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Government of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Excise Commissioner, Bihar, Patna.
4. The Inspector General of Police, Bihar, Patna.
5. The District Magistrate-cum-Collector, Muzaffarpur.
6. The Superintendent of Police, Muzaffarpur.
7. The S.H.O., Ahiyapur Police Station, Muzaffarpur.
8. The Investigating Officer, Ahiyapur P.S. Case No. 1425 of 2019, Ahiyapur Police Station, Muzaffarpur.

... .. Respondent/s

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Appearance :

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

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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 by Hon'ble the Chief Justice /Hon'ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences /offices.)

Date : 30-09-2022

Heard learned counsel for the parties.

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

- i. The order dated 14.01.2022 passed by the Excise Commissioner, Bihar, Patna (Respondent No. 3) in Excise Appeal No. 872 of 2021 as contained in Memo No. Excise Appeal Case No. 872/2021-34, Patna dated 14.01.2022 whereby and where under he has upheld the confiscation order dated 06.08.2021 passed Confiscation Case No. 301/2020-21 by the Collector, Muzaffarpur whereby and where he directed the concerned Respondent Authorities to initiate confiscation proceeding against the Petitioner's Truck bearing Reg. No. HR55S-0430, Chassis No. MAT448035DAB01208, Engine No. 31B8409-5024 which was seized in Ahilyapur P.S. Case No. 1425 of 2019 registered under sections 272, 273 of the Indian Penal Code and 30(a), 36, 38 of the Bihar Prohibition & Excise Act, 2016.

- B. A writ in the nature of MANDAMUS or any other appropriate writ/s, order/s directing the Respondent Authorities the following:
- i. To release the Truck bearing Reg. No. HR5555-0430, Chassis No. MAT448035DAB 01208, Engine No. 31B8409-5024 which was seized in Ahiyapur P.S. Case No. 1425 of 2019.
 - ii. To hold that the orders / actions (Annexure - 3) of the Respondent Authorities are not tenable in the eye of law and violation of Article 300A of the Constitution of India.
 - iii. To hold that the orders / actions (Annexure - 3) of the Respondent Authorities amounts to double jeopardy.
 - iv. To hold that the orders dated 14.01.2022 of the Respondent Nos. 3 respectively are null and void.
- C. To any other relief/s to which the Petitioner is found entitled to.

Petitioner has approached this Court without exhausting the statutory remedy of revision against the impugned order, as such, petitioner is granted liberty to avail the remedy of revision against the confiscation order passed by the Appellate

Authority- cum- Excise Commissioner, before the revisional Authority and if any such revision is filed within 4 weeks then revisional authority shall condone the delay in filing the revision and shall decide the revision on its own merit preferably within 8 weeks from the date of its filing.

During pendency of revision, the confiscated property/ vehicle shall not be auction sold.

OR

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)

Rajiv/veena-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	