

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 14476 of 2022

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Akhilesh Choudhary @ Akhilesh Kumar son of Sudhir Chaudhary, Resident
of Village- Isua, P.S.- Giriyak Pawapuri, District- Nalanda. Petitioner/s
Versus

1. The State of Bihar through Additional Chief Secretary Excise, Bihar Excise Department, New Secretariat, Bailey Road, Patna.
2. The Director General of Police, Govt. of Bihar, Patna.
3. The District Magistrate cum Collector, Nalanda at Bihar Sharif.
4. The Additional Collector Cum Additional District Magistrate, Nalanda at Bihar Sharif.
5. The Superintendent of Police, Nalanda at Bihar Sharif.
6. The Police Inspector Cum S.H.O. Giriyak (Pawapuri O P) Police Station.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Pramod Kumar Sinha, 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 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 : 14-10-2022

Heard learned counsel for the parties.

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

- (i) For an appropriate direction to the respondent authorities to release and unsealed the joint residential house of the petitioner and restore the possession of the same in favour of the petitioner which has been sealed in connection with Giriyak (Pawapuri O.P.) P.S. Case No.556 of 2021 registered under section 30(a) of the Bihar Prohibition and Excise (Amendment) Act 2018.
- (ii) For any other relief/reliefs for which the petitioner is found entitled in the eye of law and in the facts and circumstances of the present case be pleased to direct the concerned respondents to release the house in the question of the petitioner.

Allegation is of recovery of 7 litres of illicit liquor and some utensils from one room and whole premises has been sealed.

It is submitted by learned counsel for the petitioner that nothing has been recovered from the house of petitioner. It is further submitted that from perusal of written report, it appears that not a single member was present in the house in question and recovery was made only in presence of police officials and whole premises has been sealed, although recovery has been shown from one room of the premises.

Relevant portion of Section 12 of Bihar Prohibition and Excise Rules, 2021 is reproduced as under:-

12. Sealing of Premises.- (A)

(I) xxxxx

(ii) xxxxx

(iii) x x x x

(iv) x x x x

(v) As far as possible, only that portion of private residential premises which has been used for committing offence shall be sealed and not the whole premises or entire residence.

(vi) x x x x

Explanation. If premises is consisting of multi unit with different ownership only the specific unit where the offence has been committed shall be liable for sealing.”

In the facts and circumstances of the present case, the

Confiscating Authority/District Collector, Nalanda at Bihar Sharif is directed to unseal the sealed premises and seal only that part of the premises from where illicit liquor has been recovered.

In view of amendment in the Excise Act, and same being applicable in pending case, it shall be open for the petitioner to get his/her house/property released after making payment of penalty in terms of Rule 12(B) and 57(B) of Bihar Prohibition and Excise Rules, 2021.

With aforesaid observation and direction, the writ petition stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/rajiv-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	