

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2545 of 2023

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Sudhir Kumar Mahto Son of Shiv Kumar Mahto, resident of village and P.O.-
Haril, P.S. - Mohiuddin Nagar, District - Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise,
Govt. of Bihar, Patna.
2. The District Magistrate, Samastipur.
3. The Senior Superintendent of Police, Samastipur.
4. The Deputy Collector, Land Reforms-Cum-Certificate Officer-Cum-
Confiscation Officer, Patori, District - Samastipur.
5. The S.H.O. Mohiuddin Nagar P.S., Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amit Kumar, Advocate
For the Respondent/s : Mr. Kumar Manish, SC-5

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE MADHURESH PRASAD)

Date : 10-05-2023

Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner seeks release of his 'Passion Pro'
motorcycle seized in connection with M. Nagar P.S. Case No.
84 of 2022 on 25.04.2022, for alleged offence under Section
30(a) of the Bihar Prohibition and Excise Act, 2016 (hereinafter
referred to as the 'Act').

The prosecution alleges recovery of five (5) litres
country made liquor from the vehicle in question.



The proposal for confiscation of the vehicle in-question was sent by the Superintendent of Police, Samastipur on 05.06.2022 and confiscation proceedings initiated in Confiscation (Excise) Case No. 14 of 2022.

Learned counsel for the petitioner submits that without any notice to the petitioner, the Authorities have proceeded to confiscate the vehicle and the same has also been auction sold.

Learned counsel for the State, on the other hand, submits that in spite of service of notice, the petitioner did not appear before the Sub-Divisional Officer, Patory in the confiscation proceedings. The Court having regard to this issue regarding disputed service of notice had asked the learned State counsel to produce the records, copy of which has been produced in today's proceedings. The copy of the peon register available in the record, shows service of the notice upon the petitioner, received by his mother on 10.07.2022. The counter affidavit also contains copy of the notice, which was published in the daily newspaper 'Danik Jagaran' on 23.11.2022 regarding auction of confiscated vehicles, including the petitioner's motorcycle, which is mentioned at serial No. 44 of the paper publication. The petitioner has thus been given an opportunity to participate in the auction.



This Court, therefore, on bare perusal of the records and on going through the averments made in the counter affidavit is satisfied that notice was issued to the petitioner and duly served. The petitioner also had knowledge of auction of his motorcycle from the paper publication. He, however has taken no steps to participate in the confiscation proceedings or the auction proceedings. The motorcycle has, thus, been auction sold on 06.01.2023 for a consideration of Rs. 61,700/- to a third party.

Facts being so, there is no occasion for this Court to exercise extraordinary discretionary jurisdiction under Article 226 of the Constitution of India.

Accordingly, the writ application stands dismissed.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

rajkishore/-

AFR/NAFR	N/A
CAV DATE	N/A
Uploading Date	16.05.2023.
Transmission Date	N/A

