

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1913 of 2022

=====

Arun Kumar Verma @ Arun Kumar Son of Uma Shankar Verma Resident of
Mohalla - Marwadi Mohalla Nagar Panchayat Nichalaul, Ward No. 13, P.S. -
Nichalaul, District- Maharajganj (U.P.)

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Department of Bihar Prohibition and Excise, Bihar, Patna.
2. The Excise Commissioner, Bihar, Patna.
3. The Collector - cum- District Magistrate, Gopalganj.
4. The Superintendent of Excise, Gopalganj.
5. The Inspector Officer in charge, Kuchaikote Police Station, District- Gopalganj.
6. Ravi Pratap Rai S/o Lallan Rai R/o Village- Karmaini Mohabbat P.S.- Kuchaikot, District- Gopalganj, Pin Code- 841501.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Ms. Priyanka Kumari, Advocate
For the Respondent/s : Mr. Kumar Manish, SC 5

=====

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 04-07-2023

Heard learned counsels for the respective parties.

2. In the instant petition, petitioner has prayed for the following relief/reliefs:

“(I) To quash the order of the Excise Commissioner of the Patna dated 08.01.2022 by which he directed to the Collector, Gopalganj to Confiscation of the vehicle is correct. The Collector, Gopalganj to proceed with Auction and Confiscation proceeding as far the law which is bad in law.



(II) To holds the order passed by this Hon'ble High Court earlier in CWJC No. 8228/2021 and disposed of on 22-06-2021 by which the Hon'ble High Court directed authority under to disposed off the case as early as possible accordance with law failing which the vehicle be released without any further delay and also the petitioner recourse to other remedies available in accordance with law.

(III) In fact the entire proceeding is not permissible in the light of the order passed in CWJC No. 17165/2019 disposed of on 14-01-2020 holds, that the entire proceeding is not maintainable in the eye of law, because the wine was recovered less then commercial quantity (2.750 ml.) and no confiscation proceeding be initiated or to release the vehicle immediately. In spite of that the learned Commissioner failed to appreciate the legal aspect of the provision under section 56 of the Excise Act.

(IV) To drop the entire Confiscation proceeding which is bad in law and the authority cannot detained the vehicle in question, because the Confiscation proceeding is not maintainable.

(V) To any other relief or reliefs which petitioner is entitled to.”

3. Learned counsel for the petitioner submitted that official respondent should not have resorted to auction proceedings in respect of seized vehicle until and unless confiscation proceedings were completed or finalized.

4. Perusal of the records, it is evident that petitioner has not obtained any interim order insofar as staying the confiscation



proceedings or to challenge the auction notice and obtaining stay.
In other words, auction proceedings has already attained finality
and third party right has been created.

5. In the light of these facts and circumstances, present
petition has become infructuous. Accordingly, writ petition stands
disposed of as it has become infructuous.

(P. B. Bajanthri, J)

(Jitendra Kumar, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.07.2023
Transmission Date	NA

