

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2027 of 2023

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Pappu Rao Son of Late Gangadhar rao Resident of Village Namupura, Ward
No. 05, P.S. Jamtara, District-Jamtara (Jharkhand).

... .. Petitioner

Versus

1. The State of Bihar through the Additinoal Chief Secretary, Excise
Department, Government of Bihar, Patna.
2. The Excise Commissioner, Bihar, Patna.
3. The Collector-Cum-District Magistrate, Lakhisarai.
4. Senior Deputy Collector, District Legal Section, Lakhisarai.
5. Superintendent of Police, Lakhisarai.
6. The Superintendent, Excise Department, Lakhisarai.
7. The S.H.O., Kabaiya P.S. District Lakhisarai.

... .. Respondent

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Appearance :

For the Petitioner	:	Mr. Suresh Prasad Singh, Advocate
For the State	:	Mr. Kumar Manish, SC-5

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE MADHURESH PRASAD)

2 04-04-2023 Heard learned counsel for the petitioner and learned
counsel for the State.

2. The writ application has been filed seeking quashing of
the order dated 30.09.2021, as contained in Annexure-1 to the
writ application, passed by the Confiscating Authority whereby
and whereunder the 'Hyva' vehicle bearing Registration No. JH-
17E-9210, Engine No. 50K62431267, Chassis No.
396522KUZ207465, seized in connection with Lakhisarai P.S.



Case No. 188 of 2021, dated 24.03.2021, for the offences under Sections 30(a)/32(a) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as 'the Act') has been confiscated.

3. The order dated 06.06.2022, as contained in Annexure-2 to the writ application, passed by the Appellate Authority (Excise Commissioner, Patna) in Excise Appeal No. 356 of 2022, affirming the order of confiscation, as well as the order dated 03.08.2022, passed in Excise Revision Case No. 181 of 2022 by the Additional Chief Secretary-cum-Principal Secretary, Department of Excise, Government of Bihar, Patna, has also been assailed. It is not in dispute that confiscation of the vehicle in-question has attained finality before the Original/ Appellate/ Revisional Authority under the Act.

4. In the circumstances, learned counsel for the State submits that the only remedy available to the petitioner, now is for release of the vehicle, upon payment of penalty, as per Section 57(B) of the Act read with 12(A) of the Bihar Prohibition and Excise Rules, 2021.

5. Learned counsel for the petitioner has not raised any procedural infirmity or any jurisdictional error in the orders passed by the Authorities in the confiscation proceedings, appellate proceedings or revisional order. It is trite law that the



Court, while exercising jurisdiction under Article 226 of the Constitution of India, confines its review to the decision making process, and does not sit in appeal over the order under judicial review. The Court would, thus, refrain from considering the impugned orders passed by the Authorities on its merits.

6. The writ application is, thus, disposed of with liberty to the petitioner to avail his statutory remedy, as noted above, if vehicle in-question has not been auction sold or otherwise disposed of in terms of the statutory provisions.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

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