

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2715 of 2023

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Deen Mohd. Son of Khair Deen, Resident of Village- Mori Gate Mani Majra,
P.S.- Kotwali, District Chandigarh, 160101

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department Prohibition, Excise and Registration, Government of Bihar, Patna.
2. The Secretary, Department Prohibition, Excise and Registration, Government of Bihar, Patna.
3. The Director General of Police, Government of Bihar, Patna.
4. The District Magistrate-cum-Collector, East Champaran.
5. The Superintendent of Police, East Champaran.
6. The Officer-in-Charge Motihari Excise, P.S. District- East Champaran.

... .. Respondent/s

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Appearance :

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

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

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

2 21-03-2023 The petitioner's vehicle was seized by the police on 27.12.2022, consequent upon recovery of the huge quantity of illicit liquor. This writ application has been filed seeking a direction to the authority to provisionally release the vehicle (Truck).

Learned counsel representing the State has informed this Court, based on instructions, that it is proposed to initiate a confiscation proceeding for confiscation of the vehicle in question.



At this juncture, we need to take note of Rule 13A of the Bihar Prohibition and Excise Rules, 2021, framed in exercise of power under Section 95 of the Bihar Prohibition and Excise Act, 2016, which reads as under :-

"13A. Procedure of confiscation of vehicle/ conveyance etc.-(1) Where it is decided by the Collector that the vehicle is not to be released on penalty or where the owner does not pay the required penalty, the confiscation proceeding shall be initiated. The proposal for confiscation of the conveyance shall be sent by the police/ excise officer to the Collector (or an officer authorized by him) within 30 days from the date of seizure. The officer concerned shall immediately start the confiscation proceeding.

In case of delay of beyond 30 days, in submission of the proposal for confiscation, the police/ excise officer will have to explain the delay.

(2) The officer concerned, on receipt of proposal for confiscation of any vehicle(s) or other conveyances from police/ excise officer, shall issue show cause notice to owner of the said vehicle or the vessel or other conveyance. Simultaneously, he shall issue notice to the District Transport Officer and the Chemical Examiner for their reports.

(3) Such notice issued by the officer shall be served as per procedure prescribed in the Code of Criminal Procedure, 1973 for service of summons. He shall obtain report from the District Transport Officer or any authority authorized for the purpose of registration of the conveyance and the report of chemical examiner within 30 days of seizure.

(4) The officer shall provide reasonable opportunity of hearing to the owner. The investigating/ inquiry officer shall also be given opportunity to participate in such hearing.

(5) If, on the date fixed for hearing, the person(s) to whom the notice has validly been served fail(s) to appear in the proceeding on two consecutive dates fixed for hearing, the confiscating



authority shall proceed to pass the order ex-parte.

(6) The officer, after hearing the parties, on satisfaction that an offence has been committed in terms of the Act, shall pass appropriate order with respect to seized vehicle or vessel or conveyance as the case may be.

(7) The officer shall ensure that the order for confiscation is passed within 90 days from the date of seizure of the vehicle.

(8) Any person aggrieved by the order passed by the Collector under the provisions of the Act may file appeal in the manner prescribed under these Rules." (Emphasis supplied)

In view of the clear provision under sub-rule (7) of Rule 13A of the Rules, we dispose of the writ application with a direction that the vehicle of the petitioner shall be liable to be released, in case there is no order of confiscation passed in accordance with the provision under sub-rule (7) of Rule 13A of the Rules.

(Chakradhari Sharan Singh, ACJ)

(Madhuresh Prasad, J)

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