

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3816 of 2023

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Anand Kumar S/o Late Baidhyanath Prasad, R/o Mohalla- Jaiprabha Nagar,
P.S.- Kazi Mohammadpur, District- Muzaffarpur.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise and Registration, Bihar, Patna.
2. The Additional Secretary cum Revisional Authority, Department of Excise and Registration, Bihar, Patna.
3. The Excise Commissioner cum Appellate Authority, Department of Excise and Registration, Bihar, Patna.
4. District Magistrate cum Confiscation Officer, Muzaffarpur.
5. The Deputy Collector, Land Reform, East, Muzaffarpur.
6. The Superintendent of Police, Muzaffarpur.
7. The S.H.O., Sadar P.S., District- Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar Manoj, Adv.

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 THE CHIEF JUSTICE)

Date : 26-04-2023

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

The petitioner is aggrieved by the order dated



02-11-2022, passed by the Deputy Collector Land Reforms, East, Muzaffarpur (Respondent No.5), purportedly in compliance of the directions of this Court passed in C.W.J.C. No. 14109 of 2022 (Anand Kumar Vs. the State of Bihar & Ors.), as contained in Annexure-4 to the writ petition.

The petitioner's vehicle (Scorpio) bearing Registration No. BR06PC6356, Engine No. TDF4E76936, Chassis No. MA1TA2TDKF5E14296, was seized under the Excise offence and an FIR being Sadar PS Case No. 45 of 2020, dated 23-01-2020 was registered as the petitioner's vehicle, on detention, which was found to be carrying 28.020 litres of IMFL.

The petitioner approached this Court and, in the meanwhile, the Bihar Prohibition and Excise Rules, 2021 (for brevity ' the Rules') was amended bringing in Rule 12A, which conferred a discretion on the District Collect to decide on release of the vehicle on payment of 50% of the latest insured value of the vehicle. This Court directed the District Collector to consider the same.

The District Collector Land Reforms, in purported compliance of the order passed by this Court, passed an order dated 02.11.2022, as contained in Annexure-1 to the writ



petition, wherein, it is observed that 28.020 litres is a commercial quantity and hence, there could be no consideration under Rule 12A. In fact, the discretion conferred on the District Collector is specifically to refuse release of the vehicle on grounds of public interest. There is absolutely no public interest referred to in order dated 02-11-2022 (Annexure-1). It is also to be emphasized that the Act or the Rules does not define a commercial quantity and it does not lie in the mouth of the District Collector Land Reforms to determine the quantum of the liquor seized as a commercial quantity, which would not be a proper exercise of discretion.

In the facts and circumstances, we feel that the petitioner's vehicle has to be released under Rule 12A of the Rules and we interfere with the order dated 02.11.2022, passed by the District Collector Land Reforms, East Muzaffarpur, as contained in Annexure-1 to the writ petition and set it aside. We direct the District Collector, Land Reforms, East, Muzaffarpur, (Respondent No.5) to determine the insured value of the vehicle and inform the petitioner within a period of four (04) weeks from the date of receipt of a certified copy of this judgment. The petitioner, on payment of the penalty determined, shall be allowed release of the vehicle, which shall also be



absolved from the confiscation proceeding.

The writ petition stands allowed.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	
CAV DATE	
Uploading Date	29-04-2023
Transmission Date	

