

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2936 of 2022

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Rishi Kant Singh, aged about 43 years (M) S/o Brij Bihari Singh, resident of
Village Mahisauri, Babu Tola, Jamui, P.S. and Dist. Jamui.

... .. Petitioner

Versus

1. The State of Bihar through Collector cum District Magistrate, Banka.
2. The Additional Chief Secretary, Bihar, Patna.
3. Commissioner, Excise, Bihar, Patna.
4. Collector cum District Magistrate, Banka.
5. Superintendent of Police, Banka.
6. Excise Superintendent, Banka.
7. ASI of Prohibition and Excise, Sadar Circle cum Katoriya Circle, Banka.

----- Respondents

8. Uttam Kumar Mitra, S/o Gauri Shankar Mitra, resident of Village Karhariya,
P.S. and District Banka.

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Appearance :

For the Petitioner	:	Mr. Prabhat Ranjan Singh, Adv.
For the State	:	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 : 03-05-2023

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

2. The petitioner seeks quashing of Confiscation order
dated 25.01.2021 (Annexure-3), which was affirmed by the



Appellate Authority on 03-05-2021 (Annexure-4). The two orders have been passed in Confiscation Case No. 596 of 2019-20 by the Collector, Banka and by the learned Commissioner Excise, Patna in Excise Appeal Case No. 235 of 2021 respectively. The petitioner also seeks quashing of the order passed by the Additional Chief Secretary Excise, in Excise Revision No. 153 of 2021 on 02-11-2021 (Annexure-7) affirming the confiscation of petitioner's Scorpio vehicle bearing Registration No BR46P8085, Engine No. WRJ4H19227, Chassis No. MA1TA2WR2J2H26204.

3. The vehicle of the petitioner was auction sold and ownership of the same was transferred on 22-06-2021, which is also assailed by the petitioner. Upon quashing of these orders, the petitioner seeks release of his vehicle. The petitioner's vehicle was seized in connection with Excise Case No. 1 of 2020, registered for the offence under Section 30(a) of the Bihar Prohibition and Excise Act, 2016, upon seizure of 1.5 litres of illicit liquor from his vehicle.

4. The petitioner was unsuccessful in the confiscation proceedings as well as the appellate proceedings. He, thereafter, preferred a writ petition C.W.J.C. No. 13333 of 2021, which was disposed of with liberty to the petitioner to avail the remedy of



revision and a direction that if vehicle has not already been auction sold, the same shall not be auction sold. The order of the writ Court was passed on 30-07-2021, whereas the vehicle in question had already been auction sold prior there to i.e., on 12.06.2021. The petitioner's revision application filed pursuant to the High Court's order has also been dismissed.

5. It is submitted by the petitioner's counsel that the Revisional Authority has not considered the matter in proper perspective and affirmed the orders of the Authorities below without considering that the seizure was illegal and alleged quantity of recovered liquor was very small.

6. The learned State counsel, on the other hand, submits that the orders have been passed in accordance with law. There is delay and laches on the part of the petitioner in filing the writ petition before which the vehicle had already been auction sold. The fact that he has pursued the matter in Revision even later does not enure to the petitioner's benefit. The petitioner has not alleged any procedural infirmity. The fact being so, this Court should not consider the orders on merit.

7. While exercising jurisdiction under Article 226 of the Constitution of India, we are conscious of the limitations under the settled parameters of the judicial review which is normally



confined to the decision making process and not the decision itself. Therefore, this Court does not find any reason to interfere with the impugned orders dated 25-01-2021 (Annexure-3), 03-05-2021 (Annexure-4) and 02-11-2021 (Annexure-7).

8. The writ petition is misconceived and is dismissed.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	
CAV DATE	
Uploading Date	08-05-2023
Transmission Date	

