

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2803 of 2023

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Rajendra Yadav @ Rajendra Bhagat S/o Late Balgovind Yadav @ Balgovind Bhagat, R/o Village- Mahualla, P.S.- Rajgir, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home Department, Patna.
2. The Excise Commissioner, Excise Department, Government of Bihar, Vikash Bhawan, Bailey Road, Patna.
3. The District Magistrate-cum-Collector, Nalanda.
4. The Additional District Magistrate, Nalanda.
5. The Station House Officer (S.H.O.)m Rajgir P.S., District- Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shambhu Sharan Singh, Advocate
For the Respondent/s : Mr. Vikash Kumar, SC-11

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 06-04-2023 The petitioner is concerned with his house which was sealed for an excise offence. The petitioner had approached this Court earlier and this Court, passed Annexure-1 judgment dated 01.04.2022 in CWJC No. 249 of 2022; wherein petitioner was specifically directed to pay the penalty under Section 12(B) of the Bihar Prohibition and Excise Rules, 2021, if he desired to get the sealed premises unsealed.

The contention raised by the petitioner now is that the penalty is excessive. The petitioner having obtained a judgment,



as seen from Annexure-1, now is turning around and challenging the penalty as excessive. The petitioner also does not raise a challenge to the provision for penalty; which is the discretion of the Collector. The discretion no doubt, has to be exercised with due regard to the economic status of the individual, nature of his involvement, location of the premises and the quantum of the intoxicant recovered. The contraband was recovered from a room, admittedly owned by the petitioner; but alleged to be leased out which lease is not substantiated. It is also admitted that the petitioner was arrested from the premises and a total of 819 litres of illicit foreign liquor was recovered. There is nothing stated in the writ petition about the financial status of the petitioner nor is there a description of the location. In the totality of circumstances there is absolutely nothing to find the discretion exercised by the Collector to impose a penalty of Rs. 2 lakhs to be unreasonable or excessive.

The petitioner if pays the penalty, definitely the house could be unsealed and if not, the Government could take appropriate proceedings.

Learned counsel for the petitioner seeks for installments, which is a prayer that could be made before the appropriate authority.



The writ petition stands dismissed.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

Aditya/Sujit

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