

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.7273 of 2023**

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Shobha Devi (female), aged about 38 years, W/o Upendra Kumar @ Upendra Prasad, R/o Village - Sindhua Toli, near Anand Talties, Belwarganj, P.S. Alamganj, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through its Addl. Chief Secretary, Excise Department, Government of Bihar, New Secretariat, Patna.
2. District Magistrate Cum Collector, Patna.
3. The Superintendent of Police, Patna.
4. Rajendra Ram, Sub Inspector of Police, Bypass Police Station, Patna.

... .. Respondent/s

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**Appearance :**

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

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**CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI**  
**and**

**HONOURABLE MR. JUSTICE JITENDRA KUMAR**  
**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)**

**Date : 03-08-2023**

In the instant writ petition, petitioner has prayed for the following relief/reliefs:

“i. For unsealing the sealed premise, situated at Village – Bahari Dhavalpura, P.S. Bypass which was sealed on 01.06.2022 under Bihar Prohibition and Excise Act, 2018.

ii. For grant of any other relief/reliefs, which the petitioner is entitled to in the facts and circumstances of this case.”

**2.** The petitioner has not approached the concerned authority in demanding for unsealing the sealed premises in terms



of prayer made by the petitioner, therefore, question of issuance of writ of mandamus to the concerned authority is not warranted. In other words, for issuance of writ of mandamus two ingredients are necessary namely demand/application/representation and vested public duty on a public servant.

3. In the light of these facts and circumstances and the fact that confiscation proceedings is in vogue, as stated by learned State counsel, the present writ petition is not maintainable.

4. Accordingly, present writ petition stands disposed of as not maintainable. However, disposal of present writ petition would not come in the way of the petitioner to approach the confiscating authority to entertain his grievance insofar as unsealing of the sealed premises. If such application is submitted before the confiscating authority, authority is hereby directed to take note of Rule 12 B of Bihar Prohibition and Excise (Amendment) Rules, 2022.

(P. B. Bajanthri, J)

(Jitendra Kumar, J)

GAURAV S./-

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| AFR/NAFR          | NAFR       |
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