IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12453 of 2023

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Satyajeet Roy @ Satyajit Ray S/o Shayam Sundar Ray R/o Village-Bharat Rasalpur, Rannuchak P.S.-Nathnagar, District-Bhagalpur.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Registration, Excise and Prohibition,Government of Bihar, Patna.
2. The principal Secretary, Department of Registration, Excise and Prohibition,Government of Bihar, Patna.
3. The Additional Chief Secretary, Department of Registration, Excise and Prohibition,Government of Bihar, Patna.
4. The Excise Commissioner, Bihar Prohibition,and Excise Department, Bihar, Patna.
5. The District Collector, Bhagalpur.
6. The Additional Collector, Bhagalpur.
7. The Superintendent of Police, Bhagalpur.
8. The Superintendent of Excise Department, Bhagalpur.
9. The Circle Officer, Nathnagar, Bhagalpur.
10. The Station House Officer, Nathnagar, Bhagalpur.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Samir Kumar, Advocate
For the Respondent/s	:	Mr. Vikash Kumar (SC-11)
		Mr. Sri Ram Krishna, AC to SC-11

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 15-12-2023

In the instant petition, petitioner has prayed for the following relief(s):-

“ a. For issuance of writ in the nature of certiorari to set aside the order dated 19.01.2023 passed in Excise

Revision case no. 234/2022 passed by the Additional Chief Secretary (Respondent no.3) and take actions against the erring authority specifically The Station House Officer, Nathnagar, Bhagalpur (Respondent No. 10).

b. Further prayed for issuance of a consequential writ in the nature of a writ of mandamus or any other appropriate writ order or direction commanding the Respondent Authorities to not to take any coercive steps against the land of the petitioner during the pendency of this writ application.

c. Pass any appropriate order / orders for which Your Lordships would deem fit and proper."

2. Subject premises relating to confiscation and imposition of fine is arising out of Bhagalpur Sadar (Nathnagar) P.S. Case No. 343 of 2017 in respect of immovable property Khata No. 19, Khesra No. 320 a total area of 93 decimals and land is stated to be Khatiyani of the family of the petitioner. Certain proceedings were drawn by the official respondent on 30th August, 2019, thereafter, under Rule 12 (B) of Excise Rules, 2021, proceedings were stated to have been drawn on 23.08.2020. Feeling aggrieved by the order dated 25.04.2022, petitioner preferred appeal before the Appellate Authority and suffered an order on 20th September, 2022 and further in Revision also he has suffered an order on 19.01.2023. Hence the present writ petition.

3. Learned counsel for the petitioner submitted that there is no iota of evidence to the extent that petitioner is directly or indirectly involved for the offences under Excise Act

in Bhagalpur Sadar Nathnagar P.S. Case No. 343 of 2017. His name has not been cropped up in the F.I.R. or in any subsequent proceedings. In other words, merely he being the owner, he has been implicated in the seizure of the premises proceedings and it has attained finality. It is submitted that none of the authorities have apprised what is that material is evident that petitioner is involved directly or indirectly insofar as committing offences under Excise Act. On the other hand, respondent authorities have taken note of only to the extent that petitioner was owner of the aforementioned immovable property, where the concerned official respondents were stated to have found certain liquor.

4. *Per contra*, learned counsel for the respondents has resisted the aforementioned contention and submitted that subject matter of offence was on the aforementioned immovable property and petitioner was owner of that property. Therefore, he has been held to be liable for the offences under the Excise Act.

5. Heard learned counsels for the respective parties.

6. Core issue involved in the present *lis* is whether the petitioner is directly or indirectly involved in the offences under Bhagalpur Sadar Nathnagar P.S. Case No. 343 of 2017 or

not?

7. In this regard, no material evidence has been placed on record by the official respondents even to this day. In other words, they are of the view that petitioner is the owner of the aforementioned premises where the excise offence has been committed. It is to be noted that it is an open land and it is accessible to any of the general public. In the absence of material to show that petitioner was involved in such offences, seizure of the aforementioned immovable property is highly arbitrary and illegal. All the three authorities have not apprised to the extent that whether petitioner was named in the F.I.R. or not? That apart, there are no direct or indirect evidence to establish that petitioner was involved in the offences under Excise Act so as to confiscate the subject land and proceed to impose fine of rupees one lac and it was confirmed by the next higher authorities, namely, Appellate and Revision.

8. In view of these facts and circumstances, the impugned action of the respondents is highly arbitrary and illegal, in the result, all the proceedings dated 25.04.2022, 20.09.2022 and 19.01.2023 are set aside. If the subject matter of immovable property is still vested with respondents as on this day in that even release in favour of the owner of the property at

once.

9. Writ petition is allowed with a cost of Rs. 50,000/-. Cost shall be paid to the petitioner within a period of three months from the date of receipt of this order. Cost is imposed for the reasons that petitioner was unable to utilize the subject land for the last about four years.

10. Cost is warranted for the reasons that unnecessary petitioner were subjected number of cases, in the absence of single evidence against him and he has been harassed for about four years.

(P. B. Bajanthri, J)

(Purnendu Singh, J)

Niraj/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	19.12.2023
Transmission Date	N/A