

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9430 of 2023

Navneet Kumar Singh @ Navneet Kumar S/o- Nagina Singh Resident of
Village- Govind Fulkaha, P.S.- Kanti (Panapur O.P.), District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise, Prohibition and Registration, Bihar Patna.
2. The Excise Commissioner, Bihar, Patna.
3. The District Magistrate, Muzaffarpur.
4. The Superintendent of Police, Muzaffarpur.
5. The S.H.O. of Kanti P.S. Dist- Muzaffarpur.

... .. Respondent/s

Appearance :

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

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 09-08-2023

On 20.07.2023 matter was disposed of. At the time of signing the order, one of us noticed that the petitioner had a remedy of appeal against the confiscation order under Section 92 of Bihar Prohibition and Excise Act 2016 (hereinafter referred to as 'Act, 2016'). Therefore, we thought of rehearing the matter.

2. Heard the matter.

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



“(i) To issue an appropriate order/s, direction/s including a writ preferably in the nature of Certiorari for quashing the order dated 27.05.2023 passed by the confiscating authority under the Bihar Prohibition & Excise (Amendment) Act, 2021 (herein after referred to as Collector-Cum-District Magistrate, Muzaffarpur) passed in excise case No. 217/2019-2020 arising out of (Kanti Panapur O.P.) P.S. Case No. 544 of 2019 whereby and whereunder the prayer for the petitioner to release his vehicle bearing Reg No. BRO6PD-8790 has been rejected and Excise Superintendent Muzaffarpur was directed to take action for Auction of the vehicle.

(ii) To direction the respondent No. 3 District Magistrate, Muzaffarpur to release the vehicle in terms of rule 12 (4) of the Bihar Prohibition & Excise Act subject to payment of penalty.

(iii) To direct the respondent District Magistrate, Muzaffarpur to make the payment of Rs. 50,000/- to the petitioner for physical and mental harassment taking into account that despite specific order dated 25.04.2023 passed in C.W.J.C. No. 3909/2023 passed by this Hon’ble court. The District Magistrate knowingly arbitrarily.

(iv) Any other relief to which the petitioner may be found entitled in the fact and circumstances of the case.”

4. Grievance of the petitioner is premature since he has not exhausted the statutory remedy of appeal under Section 92 and revision under Section 93 of the Act, 2016.



5. Learned counsel for the petitioner submitted that grievance of releasing of the motor vehicle could be agitated with reference to Rule 12 (A) of the Bihar Prohibition and Excise (Amendment) Rules, 2023 (hereinafter referred as 'Amendment Rules, 2023'). Reading of Rule 12 (A), it could be invoked at any stage by the competent authority. In other words, appellate authority is also permitted to invoke Rule 12 (A) at appellate stage, therefore, the petitioner is permitted to file appeal before the appellate authority. He is also permitted to seek interim direction or prayer for the purpose of release of motor vehicle in the light of Rule 12 (A) of Amendment Rules, 2023.

6. In the light of these facts and circumstances, petitioner is at liberty to invoke remedy of appeal before the appellate authority within a period of two weeks from the date of receipt of copy of this order. On such memorandum of appeal, the appellate authority is hereby directed to pass orders on interim order/direction within a period of one week from the date of receipt of memorandum of appeal as interim measure, pending disposal of appeal. Further appeal be disposed of at the earliest.

7. The appellate authority is hereby directed to take note of Section 14 of the Limitation Act, 1963 for the purpose of condonation of delay insofar spending time before this Court.



8. With the above observation, present writ petition stands disposed of.

(P. B. Bajanthri, J)

(Jitendra Kumar, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.08.2023
Transmission Date	NA

