

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 11065 of 2023

Chandeshwar Mahato @ Chauhan Son of Late Raghunath Mahato, Resident
of Village-Lohijara, P.S. Sidhwalia, District-Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Government of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Excise Commissioner, Bihar, Patna.
4. The Inspector General of Police, Bihar, Patna.
5. The District Magistrate/Collector, Gopalganj.
6. The Sub-Divisional Magistrate, Gopalganj.
7. The Superintendent of Police, Gopalganj.
8. The Excise Superintendent of Police, District-Gopalganj.
9. The Officer-in-Charge of Sidhwalia Police Station, District-Gopalganj.
10. The Investigating Officer of Sidhwalia P.s. Case No. 424/2022 dated
27.11.2022, Sidhwalia Police Station, District-Gopalganj.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr Javed Aslam, Advocate
For the Respondent/s : Mr Vivek Prasad, GP VII

CORAM: HONOURABLE MR. JUSTICE P B BAJANTHRI
and
HONOURABLE MR JUSTICE JITENDRA KUMAR
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P B BAJANTHRI)

2 10-08-2023 In the instant petition, the petitioner has prayed for the
following reliefs:

*(A) A writ in the nature of Certiorari or
any other appropriate writ/writs, order/orders,
direction commanding the respondents for the
following:-*

*(i) To quash the order dated
02.06.2023 passed in Sub-Divisional
Confiscation (Excise) Case No. 215/2023 by the
Sub- Divisional Magistrate, Gopalganj whereby
and where under it has been directed to
confiscate the seized vehicle being a motorcycle*



bearing registration no. BR28Y-8528 by arranging an open bid and thereafter to deposit the amount in the government treasury arising out of said bid.

(B) A writ in the nature of Mandamus or any other appropriate writ/writs, order/orders, direction commanding the respondents for the following: -

(i) To release the Hero HF Deluxe Motorcycle bearing Registration No. BR-28 Y8528, Chassis No. MBLHAW102M9C15112, Engine No. HA11EXM9C15046, in favour of the petitioner, which was seized in connection with Sidhwalia P. S. Case No. 424/2022 dated- 27.11.2022 registered for the offence under Section- 30(a) of the Bihar Prohibition and Excise Act, 2022.

(ii) To hold that the order passed by the Sub-Divisional Magistrate is nonest in the eye of law.

(C) To any other relief/relief's for which the petitioner found entitled to.

2 Prayer No 1 is not maintainable since petitioner has remedy of filing of appeal before the appellate authority under Section 92 of the Bihar Prohibition and Excise Act, 2016.

3 Second prayer is not maintainable since petitioner has not made any representation/application before the competent authority.

4 Therefore, the present petition is not maintainable.

5 Accordingly, this writ petition stands disposed of as not maintainable.



6 Disposal of the present petition would not be a hurdle for the petitioner to prefer appeal before the appellate authority under section 92 of the Bihar Prohibition and Excise Act, 2016.

7 If such memorandum of appeal is filed within a period of three weeks from today, in that event, the appellate authority is hereby directed to examine the petitioner's grievance including granting of interim order in so far as not to auction the subject matter of motor vehicle pursuant to confiscation order dated 02.06.2023. Such an interim direction or order as to whether petitioner is entitled to interim relief or not be decided by the appellate authority within three days from the date of receipt of petitioner's appeal. Further, if there is any delay in filing memorandum of appeal, in that event, the concerned authority is hereby directed to take note of section 14 of the Limitation Act so as to condone the delay.

(P B Bajanthri, J)

(Jitendra Kumar, J)

M.E.H./-

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