

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11483 of 2023

Shankar Chaudhary Son of Lakhan Chaudhary Resident of Village- Sahora,
P.S.- Atri, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Bihar, Patna.
2. The Excise Commissioner, Bihar, Patna.
3. The District Magistrate-Cum- Collector, Gaya, Bihar.
4. The Senior Superintendent of Police, Gaya, Bihar.
5. The Incharge Officer District Legal Section, Gaya, Bihar.
6. The Assistant Commissioner, Prohibition and Excise Act, Gaya.
7. The Officer Incharge of Police Station, Atri, District- Gaya, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Arvind Kumar Singh, Advocate
For the Respondent/s : Mr. Vikash Kumar (SC-11)

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

HONOURABLE MR. JUSTICE ARUN KUMAR JHA

ORAL ORDER

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

2 22-08-2023 In the instant petition, petitioner has prayed for the
following relief(s):-

“1. i. For quashing of the order dated 16.3.2023 passed in Excise Confiscation case no. 29/2022 arising out of Atri P.S. case no. 377 /2021 instituted for the offences punishable U/SS-30(a) of Bihar Prohibition and Excise (Amendment) Act, 2018 by the Court of Learned District Magistrate-Cum- Collector, Gaya (Respondent no. 3) which was further Communicated to the petitioner vide Memo no. 1088 dated 18.3.2023 of the Incharge Officer District legal Section Gaya, (Respondent no. 5) whereby and where under, the house of the petitioner which was/is the Joint house of all the four brothers of the petitioner and his other family members i.e. situated at Khata no. 352 Kheshra No. 2559 thana no 164 area 5 decimal at Village -Sahora in District - Gaya, has been Confiscated



under the purported exercise of power Conferred under Sections 58(2) of Bihar Prohibition and Excise Act, 2016 and directed the Assistant Commissioner, Prohibition and Excise Act, Gaya (Respondent no. 6) for open Public auction of the said House of the petitioner.

ii. For quashing of the order dated 29.5.2023 passed in Excise Appeal Case no. 67 of 2023 by the Court of Learned the Excise Commissioner, Bihar, Patna, whereby and where under, an appeal filed by the petitioner against the said order dated 16.3.2023 (Annexure-1) passed in Excise Confiscation Case no. 29/2022 of the Learned District Magistrate -Cum- Collector, Gaya (Respondent no. 3) has been dismissed.

iii. For release of the House of the petitioner which is situated at Khata no. 352 Khesha No. 2559 thana No. 164 at Village- Sahora in P.S.- Atri, District-Gaya which has been Confiscated in Excise Confiscation Case no. 29/2022 arising out of Atri P.S. case no. 377/2021 for the offence of under Section 30(a) of Bihar Prohibition and Excise Act by Annexure-1.

iv. AND/Or for any other appropriate relief(s) to the petitioner for which he may be found entitled to in the eye of law."

2. The petitioner was involved in illegal possession of eight litres country made liquor in the premises situated at Khata No. 352, Khesra No. 2559, Thana No. 164, Area for about 5 decimal at Village – Sahora in District – Gaya. He was subjected to confiscation proceedings and it was adverse to the petitioner. Such order was passed on 16.03.2023. The petitioner has invoked remedy of appeal before the Appellate authority /Excise Commissioner, in which he has also suffered an order on 29.05.2023, hence, the present petition.

3. The petitioner has statutory remedy of revision under



Section 93 of Bihar Prohibition and Excise Act, 2016. Without exhausting the statutory remedy of revision, the petitioner has rushed to this Court. Therefore, the present petition is premature.

4. Accordingly, the present petition stands disposed of, reserving liberty to the petitioner to invoke remedy of revision under Section 93 of Bihar Prohibition and Excise Act, 2016. If such revision is filed, the Revisional authority is hereby directed to take note of petitioner's revision and decide at the earliest. The petitioner is also permitted to submit application or representation before the competent authority to consider his grievance insofar as release of confiscated premises under Rule 12-B of Bihar Prohibition and Excise Act, 2016. If such representation or application is submitted, the concerned authority is hereby directed to examine the grievance of the petitioner under Rule 12-B of Bihar Prohibition and Excise Act, 2016 within a period of two weeks from the date of petitioner's representation or application.

5. With the above observations, the present petition stands disposed of.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

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