

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 14712 of 2022

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1. Dilip Kumar @ Dilip Kumar Singh son of Lakshman Singh Resident of Village- Bastipur, P.S. Dehri, (Indrapuri O.P), Dist.- Rohtas at Sasaram.
 2. Pradip Kumar Singh son of Lakshman Singh Resident of Village- Bastipur, P.S. Dehri, (Indrapuri O.P), Dist.- Rohtas at Sasaram.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Additional Chief Secretary-cum-Revisional Authority, Registration, Excise and Prohibition Department, Government of Bihar, Vikash Bhawan, Patna.
3. The Excise Commissioner-cum-Appellate Authority, Registration Excise and Prohibition Department, Government of Bihar, Vikash Bhawan, Patna.
4. The District Magistrate-cum-Confiscational Authority, Rohtas at Sasaram.
5. The Superintendent of Police, Rohtas, District- Rohtas.
6. The Superintendent of Excise Department, Rohtas, District- Rohtas.
7. The S.H.O. Dehri (Indrapuri O.P), District- Rohtas.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr Babu Nandan Prasad, Advocate
For the Respondent/s : Mr Kumar Manish, SC V

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR JUSTICE MADHURESH PRASAD)

Date : 26-04-2023

Heard learned counsel for the petitioners and the respondents.



2 For release of the petitioners' general shop situate on Khata No 184, Khesra No 406/12, Thana No 175 measuring 96 square feet in the dwelling house of petitioner No 1, which was seized on alleged recovery of 14.880 liters of illicit liquor in Dehri (Indrapuri Outpost) Police Station Case No 800 of 2020, the present writ petition has been filed.

3 Petitioner had earlier also approached this Court in CWJC No 20643 of 2021. Taking note of Rule 12B of the Bihar Prohibition and Excise Rules, 2021 (for brevity, *the Rules*) read with Section 57B of the Bihar Prohibition and Excise Act, 2016, this Court disposed of the writ petition enabling the petitioners to avail remedy under the above noted provisions for release of the premises. The petitioners, thereafter, approached the District Magistrate, Rohtas at Sasaram for release of the premises. The District Magistrate, Rohtas at Sasaram has determined fine of Rs 10 lacs for release of the premises in question after issuing notice to the petitioners. The determination is in purported exercise of jurisdiction under Rule 12B (2) of the Rules, which reads as follows:

***“12B. Release of Premises on
Payment of Penalty:-***

(1)



(2) The Collector or the officer authorized by him shall have due regard to the economic status of the individual, nature of his involvement in the crime, location of the premises and the quantum of intoxicant recovered while deciding the quantum of fine to be paid by the individual. However, the fine shall not be less than Rs one Lakh in any case.

4 The District Magistrate, Rohtas at Sasaram, as per the Rule, is required to take into consideration the aspects specified in Rule 12B (2) of the Rules, namely, the economic status of the individual, nature of his involvement in the crime, location of the premises and the quantum of intoxicant recovered, which apparently has not been done in the instant case. From the affidavits filed also, it is apparent that the District Magistrate, Rohtas at Sasaram has determined the fine at Rs 10 lacs being overwhelmed only by the valuation report of the property in question. The other factors, which were required to be considered under Rule 12B (2) of the Rules, have not been considered.

5 The order of the District Magistrate dated 28.02.2023, passed during pendency of the instant writ proceedings, is hereby quashed.

6 The matter is remanded to the District Magistrate, Rohtas at Sasaram (Respondent No 4) for passing order afresh as per Rule 12B (2) of the Rules after due consideration of the



relevant factors enumerated therein, within four weeks from the date of receipt/production of a copy this order. .

7 The writ petition is disposed of accordingly.

(K Vinod Chandran, CJ)

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.05.2023
Transmission Date	NA

