

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14630 of 2022

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Uday Kant Mishra @ Uday Mishra son of Late Ram Chandra Mishra,
resident of Village- Mahanth Maniyari Tola Lakshmipur, P.S.- Maniyari,
District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Government of Bihar, Patna.
2. The District Magistrate cum Collector, Muzaffarpur.
3. The Deputy Collector cum Addl. District Magistrate, Muzaffarpur.
4. The Senior Superintendent of Police, Muzaffarpur.
5. The Officer in- Charge, Maniyari Police Station, District- Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ganesh Prasad Singh, Advocate
For the Respondent/s : Mr. Kumar Manish (SC-5)

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

Date : 17-08-2023

On 31.07.2023, the matter was heard and the
following order was passed:-

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

*“(A) To issue appropriate writ, order
or direction in the nature of Certiorari for
quashing/setting aside Confiscation
Proceeding No. 191 of 2021-22 including
the notice dated 09.06.2022 issued by
respondent Deputy Collector cum Addl.
District Magistrate, Muzaffarpur vide
Notice memo No. 578 dated 09.06.2022*



whereby it has been informed to the petitioner through Officer in-charge, Maniyari P.S. that respondents are going to confiscate the house of petitioner in a very arbitrary manner contrary to the facts that neither intoxicant/liquor was recovered from the house of the petitioner nor any property was seized/sealed in connection of Maniyari P.S. Case No. 425/2021 registered on 10.12.2021 under section 30(a) of Bihar Prohibition and Excise Act, 2018.

(B) To grant any other relief or reliefs under the facts and circumstances of the cases under which the petitioner is entitle.”

2. The alleged offences relate back to dated 10.12.2021. Whereas, the premises to be sealed under Section 62 was introduced for the first time w.e.f. 01.04.2022 under the amended Act, 03.03.2022. Therefore, question of seizure of premises of petitioner is not permissible. However, the concerned respondent is permitted to proceed with the confiscation proceedings, in such proceedings, petitioner shall be given ample opportunity of hearing.

3. With the above observation, the present petition stands disposed of.

4. At this stage, learned counsel for the State intends to produce relevant unamended Section 62 as well as Rule 12 on the next date of hearing so as to apprise whether respondents have still power as on 10.12.2021 insofar as seizure of any



premises or not?

5. Relist this matter on 16.08.2023.”

02. Today, we have perused Section 62 of Bihar Prohibition and Excise Act, 2016 as well as Rule 12 of Bihar Prohibition and Excise Rules, 2021 (for short ‘the Rules, 2021). The registration of F.I.R. is dated 10.12.2021 whereas Rule 12 of the Rules, 2021 was introduced on 27.09.2021. The competent authority issued notice of appearance of the petitioner on 09.06.2022 for his appearance on 22.06.2022. The petitioner did not appear, thereafter, the competent authority proceeded to notifying notice in the news paper on 06.01.2023 for appearance. In the meanwhile, the present petition is filed.

03. Perusal of the dates and events read with Rule 12 of the Rules, 2021 and the date of F.I.R., the petitioner would be subjected to under Rule 12 of the Rules, 2021.

04. In the light of these facts and circumstances, the petitioner is hereby directed to appear before the competent authority and apprise it the factual aspects of the matter for the purpose of not confiscating the subject matter of immovable property. The competent authority is hereby directed to take note of each and every contention of the petitioner and proceed to pass order under Rule 12 of the Rules, 2022. The above exercise shall be completed within a period of three months



from the date of receipt of a copy of this order. The petitioner is hereby directed to co-operate in the aforementioned proceeding.

05. With the above observations, the writ petition stands disposed of.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

Ashish/-
Himanshu/-

AFR/NAFR	NA
CAV DATE	NA
Uploading Date	21.08.2023
Transmission Date	NA

