

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14046 of 2023

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Mohan Sharma S/o Laxman Thakur R/o- vill- Seria, P.S.- Basantpur, Distt.- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary Department of Excise, Bihar, Patna.
2. Secretary, Department of Excise, Bihar, Patna.
3. The District Magistrate cum collector, Gopalganj at Gopalganj.
4. The Superintendent of Excise, Gopalganj at Gopalganj.
5. S.H.O., Kuchaykot P.S., Kuchaikot, Distt. Gopalganj.

... .. Respondent/s

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Appearance :

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

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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 : 17-10-2023

In the instant writ petition, the petitioner has prayed for the following relief(s):

“For direction to respondent no.5, to release the Motorcycle having registration no.BR 29AD 3393 engine no.HA11ENHHL21331, Chasis no.MBLHAR232 HHL 23491 to which petitioner is registered owner which has been seized by respondent no.5 in connection with Kuchaikote PS case no.97/2023 dt. 25/02/2023 u/s 30(a) of Bihar Prohibition of Excise Act,



2018.”

2. The petitioner without invoking remedy of filing representation or application under Rule 12-A of the Bihar Prohibition and Excise Rules 2023 has rushed to this Court. Therefore, the present writ petition is not maintainable for issuance of a writ in the nature of mandamus under Article 226 of the Constitution of India. For issuance of writ of mandamus, two ingredients are mandatory, namely, (i) demand and (ii) public duty on the public authority. Both the ingredients are not forthcoming in the present writ petition.

3. Accordingly, the present writ petition stands disposed of reserving liberty to file application in the prescribed form before the competent authority.

4. It is submitted by the learned counsel for the petitioner that no confiscation proceeding has been initiated as on today.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.10.2023.
Transmission Date	NA

