

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13183 of 2023

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Krishna Kumar Verma Son of Sachidanand Prasad, Resident of Village -
Bazar, P.S.- Dhoraiya, District- Banka.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Registration and Excise, Bihar, Patna-1.
2. The Principal Secretary, Department of Registration and Excise, Bihar, Patna-1.
3. The Collector, Bhagalpur.
4. The Senior Superintendent of Police, Bhagalpur.
5. S.H.O, Goradih O.P under Sabour Police Station, Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vivekanand Vivek, Advocate
For the Respondent/s : Mr. Akash Chaturvedi, A.C. to S.C.-11

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA

ORAL ORDER

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

4 06-11-2023

In the instant petition, the petitioner has prayed for
following reliefs:

*(i) For issuance of an appropriate writ /
writs/ order/ orders /direction /directions
commanding the respondents to release the vehicle
Tempo bearing registration No - BR 51P-1174
provisionally seized in connection with Sabour
(Goradih) P.S. Case No- 295/2020 registered
under section 30 (a) of Bihar Excise & Prohibition
Act, 2016 contained Annexure- 1 of the application*



on the written report of Ashutosh Kumar SHO posted at O.P, under Sabour P.S., during the pendency of any proceeding pending against him in terms of order dated 8.7.2020 passed in CWJC No-2050/2020 Munilal Vs. The state of Bihar & others.

(ii) For issuance of an appropriate writ / writs/order/orders/direction/directions commanding the respondents to release the said vehicle in such a condition in which the same was seized in favour of the petitioner who is registered owner of the vehicle and to accept the objection/show cause.

(iii) For issuance of any appropriate writ/writs/order/orders/ direction/directions to which the petitioner is entitled in accordance with law.

2. The petitioner is not entitled to the aforementioned relief in the absence of an application or demand before the competent authority. In other words, for issuance of writ of mandamus two ingredients are mandatory, namely, demand and public duty on the public authority. Firstly, in the present case there is no demand, therefore, the present writ petition is not maintainable.

3. Learned counsel for the respondent- State on instruction submitted that the subject matter motor vehicle was



matter of confiscation proceedings and further appeal. Thereafter, the subject matter vehicle is stated to have been auctioned.

4. In the light of these development, the petitioner is not entitled to release of the subject matter motor vehicle on merely asking for a direction. Therefore, the petitioner has not made out a case and hence, the writ petition stands dismissed.

5. Dismissal of the present petition would not be a hurdle in so far as questioning the validity of appellate authorities' order against the confiscating authorities order or revisional order against the appellate authorities' order.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

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