

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13318 of 2023

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Bablu Kumar S/o Sri Arun Kumar Singh Resident of Vilalge-Jarang Gotoli,
P.S.-Gaighat, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. The Excise Commissioner, Prohibition and Excise Department, Bihar, Patna.
3. The Collector Cum District Magistrate, Gopalganj.
4. The Superintendent of Police, Gopalganj
5. The Sub Divisional Officer, Gopalganj, Gopalganj.
6. The Station House Officer (S.H.O.), Gopalganj Police Station, Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Saptashwa Singh
For the Respondent/s : Mr.Kumar Manish (Sc5)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

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

2 22-09-2023 In the instant petition, petitioner has prayed for the
following relief(s):-

*“That the present writ application
is being filed for the grant of appropriate
writ/order/direction fro the release of
Mahindra Scorpio bearing Registration No.
BR06PB8421, registered in the name of
Petitioner, having Chassis No.
MA1TA2MWND2F19532, Engine No.
MWD4E16981, after setting aside the order
dated 24.07.2023 passed in Excise Appeal
Case NO. 96/2023 by the Excise
Commissioner, Bihar, Patna whereby the
said appeal filed for release of the said
vehicle has been rejected, in terms of
insertion of Rule 12 (A) post amendment in*



Bihar Prohibition and Excise Rules, 2021, whereby a confiscated vehicle can be released after making payment of penalty in view of insertion of Section 57 B by way of Bihar Prohibition and Excise (Amendment) Act, 2022.”

2. The petitioner has suffered order in the confiscation proceedings and thereafter he preferred appeal in Excise Appeal Case No. 96 of 2023 also suffered an order on 24.07.2023. Hence, the present petition.

3. The petitioner has statutory remedy of revision under Section 93 of Bihar Prohibition And Excise Act, 2016. However, it is submitted that the petitioner in his memorandum of appeal in the Excise Appeal Case No. 96 of 2023 he has pleaded that his grievance could be considered under Rule 12A of Bihar Prohibition & Excise (Amendment) Rules, 2022 (for short ‘Rule 12A’) and the same has not been considered. Rule 12A is required to be invoked by the District Collector/District Magistrate. Therefore, the petitioner is hereby directed to furnish fresh application or representation under Rule 12A before the District Magistrate in the prescribed form if such application or representation is submitted before the District Collector. District Collector is hereby directed to proceed to pass an order within a period of two weeks’ from the date of receipt of petitioner’s application/representation Till disposal of



petitioner's application/representation under Rule 12A, the concerned authority is hereby directed not to precipitate the auction proceedings, if subject matter of motor vehicle is not been already auctioned.

4. With the above observation, the present petition stands disposed of. Liberty is also given to the petitioner to invoke remedy of revision if he intends to invoke.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

abhishekk/-

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