

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15632 of 2023

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Anup Kumar Yadav Son of Sunil Kumar Yadav, resident of Bhathwa Pashuram, P.S.-Kuchaykot, District-Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Excise and Prohibition Department, Bihar, Patna.
2. The Principal Secretary, Department of Excise and Prohibition, Government of Bihar, Patna.
3. The District Magistrate, Gopalganj.
4. The Superintendent of Police, Gopalganj.
5. The Station Head Officer, P.s.-Phulwariya, District-Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Nagendra Prasad Yadav No.1, Advocate
For the Respondent/s	:	Mr. Vivek Prasad, GP 7
		Mr. Sanjay Kumar, AC to GP 7
		Ms. Roona, AC to GP 7
		Ms. Supragya, AC to GP 7
		Mrs. Manisha Singh, AC to GP 7

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

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

Date : 01-12-2023

Heard learned counsels for the respective parties.

2. There is delay of about 16 days in re-filing while removing the office defects, such delay of 16 days stands condoned.

3. In the instant writ petition, petitioner has prayed for the following relief/reliefs:



“That the instant application is being filed for issuance of appropriate writ(s) thereby commanding and directing the respondent to release the petitioner’s Truck (Goods Carrier) bearing Registration No. UP54T-2636, Engine No. K426UY319049, Chassis No. MAT448022ESN13506 which has been seized in connection with Phulwariya P.S. Case No. 92/2023 dated 15.03.2023 registered u/s 30(a)/41(i) of Bihar Excise Act, 2018 pending in the court of Additional Sessions Judge-II-cum-Special Judge, Phulwariya Excise Court – I, Gopalganj as the petitioner is the registered owner of the said seized vehicle and/or grant any other relief(s) for which the petitioner is entitled to in the facts and circumstances of the present case.”

4. The present writ petition is not maintainable for issuance of writ of mandamus or direction to the concerned authority in the absence of demand like representation or application before the competent authority who is empowered to exercise statutory duty in considering the petitioner’s grievance. Therefore, writ petition is not maintainable.

5. Accordingly, the present writ petition stands disposed of as not maintainable.

6. Disposal of the present writ petition would not be a hurdle for the petitioner to submit a detailed



application/representation in the prescribed form before the competent authority in the light of Rule 12 A and sub-Rule 2 of Rule 12 A of (Amended) Rules, 2023. If such application/representation is submitted, the concerned authority is hereby directed to take note of and decide the petitioner’s application/representation within a period of two weeks from the date of receipt of such application/representation. Such consideration is subject to confiscation of proceedings, if any. In other words, petitioner’s right is protected to pursue confiscation proceedings, in accordance with law.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.12.2023
Transmission Date	NA

