

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14830 of 2023

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Juhi Kumari @ Juhi Devi D/o Nagendra Nath Tiwari, W/o Narendra Kumar Pandey, Resident of Village-Repura, P.S.-Hathua, Dist.-Gopalganj. At present residing at Village-Semraha, P.S. Mirganj, Dist. Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise, Government of Bihar, Patna.
2. The Commissioner Excise, Government of Bihar, Patna.
3. The Collector cum District Magistrate, Gopalganj.
4. The Superintendent of Police, Gopalganj.
5. The Officer In-charge, Hathua Police Station, P.S.-Hathua, District-Gopalganj.
6. The Investigating Officer of Hathua Police Station of Hathua P.S. Case No. 141/2023, P.S.-Hathua, District-Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar, Advocate
For the Respondent/s : Mr. Vikash Kumar (SC1- 1)

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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 03-11-2023 Heard learned counsel for the respective parties.

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

"(a) A writ in the nature of mandamus or any other appropriate writ, order/s direction/s commanding the respondents to release the Hero Splendor Motorcycle bearing registration number BR-29-AD-2921, Chesis No. MBLHAR073HHE46192 and Engine No. HA10 AG HH E50079, seized in pursuance of



*a case registered as Hathua P.S.
Case No. 141/2023 Under Section 30(a) of
the Bihar Prohibition 2022. and Excise
(Amendment) Act, 2022.*

*(b). For any other relief/s to which
the petitioner is found entitled to."*

3. For issuance of writ of mandamus two ingredients are mandatory namely demand before the competent authority, in other words, application or representation and duty cast on the public servant insofar as deciding the grievance of the petitioner. The first ingredient is not forthcoming in other words petitioner has not approached the concerned authority for the purpose of release of the subject matter of motor vehicle. In fact, Rule 12-A of Bihar Prohibition and Excise Rules, 2021 (for short 'Rules 2021) provides for submission of application. Therefore, the present writ petition stands disposed of as premature. However, disposal of the present writ petition would not be a hurdle for the petitioner to approach the concerned authority while making application in the prescribed format for the purpose of release of the vehicle before the competent authority. Under Rule 12- A of Rules, 2021, if such application is submitted, the competent authority is hereby directed to examine the grievance of the petitioner and redress the same, in accordance with law within a period of two weeks from the date



of receipt of petitioner’s application.

4. Accordingly, the present writ petition stands disposed of.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

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