

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14610 of 2023

1. Pankaj Kumar Sharma Son of Sh. Tekchand Sharma, Resident of Kamruddinganj, P.O.- Biharshariff, P.S.- Laberi, District- Nalanda, Presently residing at- Jasawas (81), P.S- Mahendragarh, District- Mahendragarh (Haryana), Pincode- 123029.
2. Lallu Kumar, Son of Upendra Yadav, Resident of village- Nijay Bigha Par, P.S.- Rahui, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Government of Bihar, Patna.
2. The Excise Commissioner, District- Vaishali.
3. The District Magistrate- cum- Collector, District- Vaishali.
4. The District Magistrate- cum -District Officer, District- Nalanda.
5. The Superintendent of Police, District- Vaishali.
6. The Superintendent of Police, District- Nalanda.
7. The Excise Superintendent, District- Vaishali.
8. The District Transport Officer, District- Vaishali.
9. The Station House Officer, P.S.- Industrial Area, District- Vaishali.
10. The Station House Officer, P.S.- Rahui, District- Nalanda.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Anil Kumar Singh, Advocate
For the Respondent/s	:	Mr. Vivek Prasad (GP-7)
	:	Ms. Roona, AC to GP- 7
	:	Ms. Manisha Singh, AC to GP- 7
	:	Mr. Sanjay Kumar, AC to GP- 7
	:	Ms. Supragya, AC to GP- 7

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, petitioners have prayed for
the following reliefs:-



"(i) Issuance of the appropriate writ, order(s) or directions(s) in the nature of 'Mandamus inter alia seeking directions upon respondents, especially respondent no.-3 to release the vehicle i.e. Mahendra Bolero Pickup of the petitioner bearing Registration No.- BR-06GE-6103, Chasis No.- MAIZN2GHKG1H59431 and Engine No.- GHG1H39516 on the ground that the original registration number of the said vehicle is BR21GA3682 which got stolen in 2021 and the Petitioner is the owner of the said vehicle, further, pursuant to the theft of the vehicle in question, F.I.R. bearing Rahui P.S. Case No.-439 of 2021 was also registered.

(ii). And for issuance of any other relief(s) for which the petitioners are entitled for."

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 petitioners. The first ingredient is not forthcoming in other words petitioners have 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 petitioners 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 petitioners 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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