IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17942 of 2022

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Ekram @ Md. Ekram, Son of Ismail, Resident of Village- Ahilgoan, P.S.- Jalalgarh, District- Purnea.

... ... Petitioner/s

Versus

1. The State of Bihar through the Secretary, the Department of Custom and Excise, the Government of Bihar, Patna.
2. The Collector, Katihar, District- Katihar.
3. The Sub Divisional Magistrate (S.D.M.), Barsoi, District- Katihar.
4. The Superintendent of Police, Katihar, District- Katihar.
5. The Deputy Superintendent of Police, Katihar, District- Katihar.
6. The Office In Charge of P.S.- Balram pur, District- Katihar.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Nadimul Hasan, Advocate
		Mr. Md. Abu Haider, Advocate
For the Respondent/s	:	Mr.Vikash Kumar (SC-11)

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date : 20-02-2023

The petitioner is the owner of Scorpio vehicle bearing Registration No.BR-11PB-5490. Based on a secret information, the police had intercepted the vehicle and upon search 129.750 litres of Indian made foreign liquor was recovered. This led to registration of F.I.R. giving rise to Balrampur P.S. Case No.19/21 for the offence punishable under Section 30A of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as “the Act”). Simultaneously, a confiscation proceeding was also initiated for confiscation of the vehicle in accordance with the provision under Section 58 of the Act. The petitioner was given an opportunity of hearing in the confiscation proceeding. Subsequently, by an order dated 12.06.2021, passed by the Sub-divisional Magistrate, Barsoi, Katihar, the petitioner’s vehicle was ordered to be confiscated. Against the order of confiscation, the petitioner preferred an appeal under Section 92 of the Act before the Excise Commissioner, Bihar, Patna giving rise to Excise Appeal No. 543 of 2021. The appellate authority dismissed the appeal and affirmed the order of confiscation by his order dated 14.09.2021. The petitioner thereafter preferred a revision application under Section 93 of the Act giving rise to Excise Revision No. 207 of 2022 which has been dismissed by an order dated 15.10.2022 passed by the Additional Chief Secretary, Excise (Prohibition and Registration) Department, Government of Bihar. Aggrieved by the aforesaid orders, the petitioner has approached this Court by filing the present writ application under Article 226 of the Constitution of India.

Learned counsel appearing on behalf of the petitioner has submitted that when the seizure of Indian made foreign liquor was made from the petitioner’s vehicle, the petitioner was not found present in the vehicle, rather the driver was there in the vehicle. He has submitted that the petitioner did not have any knowledge that the driver was using the petitioner's vehicle for illegal purposes. He contends that the confiscating authority has committed gross error in not realizing the fact that petitioner was not responsible for presence of the Indian made foreign liquor in his vehicle and has passed the order of confiscation without due application of mind. He has argued that the appellate authority as well as the revisional authority have miserably failed to consider this aspect of the matter while rejecting the petitioner's appeal and revision against the order of the confiscating authority.

Learned S.C. 11 appearing on behalf of the State has, on the other hand, submitted that this is not in dispute that the vehicle in question belonged to this petitioner from which huge quantity of Indian made foreign liquor, as noted above, was duly seized by the authorized persons in accordance with law. After seizure of Indian made foreign liquor, a criminal case was instituted and confiscation proceeding was also initiated. The petitioner was given ample opportunity in the confiscation proceeding to put forth his case. The confiscating authority, after duly considering the petitioner's case and the case of the

Department, passed the order of confiscation. The appellate authority also, after duly considering the points raised by the petitioner in his appeal, rejected the petitioner's appeal and, thus, affirmed the order of the confiscating authority. He has drawn our attention to the order passed by the Additional Chief Secretary, Excise (Prohibition and Registration)-cum-Revisional Authority to contend that the said order is well-reasoned and it is manifest that there has been due application of mind while considering the petitioner's revision application.

We have carefully gone through the impugned order dated 15.10.2022 of the revisional authority which has been brought on record. We are satisfied on perusal of the impugned order dated 15.10.2022 that there has been no violation of principles of natural justice. As a matter of fact, the petitioner has not taken any ground of violation of principles of natural justice in the present writ application. The order of the revisional authority is a detailed order which has duly taken into account the points raised by the petitioner. On careful reading of the impugned order dated 15.10.2022, we are of the opinion that the said order is a reasoned order and has taken into account all the points which were raised by the petitioner in his revision application. The petitioner cannot resist confiscation of the vehicle, liable to be confiscated under the provisions of law on the ground that though he was owner of the vehicle, he did not have the knowledge that his vehicle was being used for illegal purposes. No stand has been taken that despite all due precaution taken by him, the vehicle was used by his driver for illegal purposes of the nature of transportation of huge quantity of Indian made foreign liquor. The orders which are impugned, in our view, do not require any interference exercising writ jurisdiction under Article 226 of the Constitution of India.

We do not find any merit in this writ application, which is accordingly dismissed.

The petitioner shall be at liberty to participate in the auction-sale of the vehicle, if the auction-sale has not already taken place.

(Chakradhari Sharan Singh, ACJ)

(Jitendra Kumar, J)

K.C.Jha/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	23.02.2023
Transmission Date	