

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16357 of 2023

Pradeep Kumar, S/O Ram Sajeevan @ Ram Sajeevan Choudhary R/O Vill.-
Lohrauli, P.S.- Purani Basti, Dist.- Basti, State- Uttar Pradesh.

... .. Petitioner/s

Versus

1. The State of Bihar through the principal Secretary, Department of Excise, at Patna.
2. The Commissioner Excise, Bihar at Patna.
3. The District Magistrate Muzaffarpur
4. The Superintendent of Police Muzaffarpur.
5. The Excise Inspector, Muzaffarpur.
6. The S.H.O, Excise Police Station, Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Rajeev Ranjan No.II, Advocate
For the Respondent/s : Mr. Kumar Manish (Sc5)

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

ORAL ORDER

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

2 28-11-2023 In the instant petition, petitioner has prayed for
following relief(s):

*“(1) That this writ application is directed
for issuance of appropriate writ for commanding
the respondents to release the Truck bearing
Registration no. UP-51AT-0611 which has been
seized by the respondents in connection with Excise
P.S. Case No. 1032/2023 registered for the offence
u/s 10 of Bihar Molasses (control) Act, 1947 and
section 30(c), 32(iii) of Bihar Prohibition and
Excise Act, 2016 instituted on 16.05.2023.”*

2. For the purpose of issuance of writ of mandamus



to the public authority, petitioner has to satisfy two ingredients namely demand and statutory duty vested with the public authority. The first ingredient is not forthcoming, therefore, the present writ petition is not maintainable and it is premature.

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

4. Disposal of the present petition would not be a hurdle for the petitioner to invoke appropriate remedy before the competent authority while invoking Rule 12-A of Bihar Prohibition and Excise Rules, 2021 read with Sub-Rule (2) of Rule 12-A (amended) Rules, 2023 in the prescribed Form be submitted within a period of two weeks from today. On receipt of such application, the competent authority is hereby directed to pass a detailed speaking order. If any penalty is required to be imposed, in that event, petitioner shall be heard in respect of invoking sub-rule 2 of Rule 12-A (amended) Rules, 2023 and decide within a period of four weeks from the date of receipt of application to be filed.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

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