

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1181 of 2023

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Harshminder Singh S/o-Harkewal Singh, R/o-Mansoorpur, P.S. Salala,
District-Jalandhar (Punjab).

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Excise, Government of Bihar, Patna.
2. The Excise Commissioner, Patna Division, Patna.
3. The Collector cum District Magistrate, Buxar.
4. The Superintendent of Police, Buxar.
5. The Sub-Divisional Police Officer, Dumrao.
6. The Excise Superintendent cum Secretary, Auction Committee, Buxar.
7. The Motor Vehicle Inspector, Buxar.
8. The S.H.O. Nawanagar (Sonebarsa) Police Station, Nawanagar.
9. Mahesh Kumar, S/o-Mahendra Sah, R/o-Village-Rajgir, P.S. Rajgir, District-Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhishek Kumar, Advocate
For the Respondent/s : Mr. Kumar Manish (SC-5)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 11-07-2023

Heard learned counsels for the parties.

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

"(I) For setting aside the order
dated – 29-12-2021 passed by the court of
Additional Chief Secretary, Department of
Excise, Government of Bihar, Patna
(Respondent No. 1) whereby and where
under the learned court has dismissed the



revision application of the petitioner vide Excise Revision No. 257/2021 and thereafter affirmed the order passed by the learned Excise Commissioner, Department of Excise, Government of Bihar, Patna (Respondent No. 2) in Excise Appeal Case No. 584/2021 dated- 05-10-2021 inasmuch as the order passed by learned Collector cum District Magistrate, Buxar (Respondent No. 3) in Confiscation Case No. 78/2019 dated – 09-07-2021 for confiscation of vehicle of the petitioner and further by his order aforesaid directs the learned Collector cum District Magistrate, Buxar (Respondent No. 3) to proceed with auction in the confiscation proceeding.

(II) For setting aside the order dated – 05-10-2021 passed by the Hon'ble Excise Commissioner, Patna Division, Patna (Respondent No-2) in connection with Excise Appeal Case No – 584 of 2021 arising out of Excise Case No- 78 of 2019 in connection with Nawanagar (Sonebarsa) P.S. Case No – 198/2018 registered for the offences under section – 30(a) of the Bihar Prohibition and Excise (Amendment) Act 2018, whereby and where under the Hon'ble Excise Commissioner, Patna Division, Patna has been pleased to dismissed the excise appeal of the petitioner and thereafter affirm the order dated – 09-07-2021 passed by the learned Collector cum District Magistrate, Buxar regarding confiscation of the vehicle (Bharat Benz, 12 wheeler truck) of the petitioner bearing Registration No – PB-08CX-8511, Engine No – 400950D0020541, Chassis No – MEC2241CGFP020312.

(III) For setting aside the auction sale order dated – 09-07-2021 passed by the Collector cum District Magistrate, Buxar (Respondent No -3) in connection with Confiscation Case No – 78 of 2019 arising out of Nawanagar (Sonebarsa) P.S. Case No – 198/2018



registered for the offences under section – 30(a) of the Bihar Prohibition and Excise (Amendment) Act 2018, whereby and where under the learned Collector cum District Magistrate, Buxar (Respondent No -3) has been pleased to passed an order to confiscate the vehicle (Bharat Benz, 12 wheeler truck) of the petitioner bearing Registration No – PB-08CX-8511, Engine No – 400950D0020541, Chassis No – MEC2241CGFP020312 and thereafter in pursuant to his aforesaid order during the pendency of revision application before the Additional Chief Secretary Bihar Patna (Respondent No -1) bearing Excise Revision No – 257/2021 sold the vehicle in auction in favor of one Mahesh Kumar, s/o- Mahendra Sah, r/o – Village- Rajgir, P.S. Rajgir, District- Nalanda (Respondent No -9) on 22-12-2021 without taking into consideration that a revision application is still pending before the competent authority challenging the order passed by the learned court below.

(IV) After setting aside the auction sale order – 09-07-2021 passed by the learned Collector cum District Magistrate, Buxar (Respondent No-3) declaring as null and void may direct the learned Collector cum District Magistrate, Buxar (Respondent no-3) to restore the possession of the vehicle in question in favor of the petitioner which has already been auction sold by the direction of learned Collector cum District Magistrate, Buxar (Respondent no-3) during the pendency of the revision application before the court of Additional Chief Secretary, Department of Excise, Government of Bihar, Patna (Respondent no-1)

(V) After going through the materials on record declared the act of the learned Collector cum District Magistrate, Buxar (Respondent no -3) as against the



principal of nature justice.

(VI) Any other relief/reliefs as your lordships may deem fit and proper in the fact and circumstances of this case."

3. The petitioner had suffered an order in the confiscation proceedings. He has exhausted the remedy of appeal and thereafter revision. During the intervening period there were no interim order in favour of the petitioner so as to stall the auction proceedings by the official respondents. Therefore, official respondents have proceeded to auction the subject-matter of seized vehicle property. Hence, the present petition does not survive for consideration as it has become infructuous.

4. Accordingly, the present petition stands disposed of reserving liberty to the petitioner to claim damage in the event of trial case is in his favour.

(P. B. Bajanthri, J)

(Jitendra Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	14.07.2023
Transmission Date	N.A.

