IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1608 of 2023

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Asha Kumari Wife of Raj Kumar, B-264, T-Hubs Meera Bagh Paschim Bihar, West Delhi.

... ... Petitioner

Versus

1. The State of Bihar through Principal Secretary Prohibition and Excise Act, Patna.
2. The Principal Secretary Excise, Patna.
3. The Excise Commissioner, Patna (Bihar)
4. The District Magistrate cum Collector, Muzaffarpur.
5. The Superintendent of Police, Muzaffarpur.
6. The S.H.O. Minapur Police Station, Muzaffarpur.

... ... Respondents

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Appearance :

For the Petitioner : Ms. Kumari Sujata Sinha, Advocate
For the State : Mr. Vivek Prasad, GP-7

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE MADHURESH PRASAD)

2 04-04-2023 Heard learned counsel for the petitioner and learned counsel for the State.

2. As per the First Information Report (for brevity 'FIR') bearing Minapur P.S. Case No. 86 of 2021, dated 16.03.2021, illicit liquor has been recovered from the luggage compartment of the Mini Bus, bearing Registration No. HR55AJ-1961, Chassis No. MCIF4FAA0L0007391, Engine No. D67039741. Based on such recovery, mini bus was seized on 16.03.2021. The vehicle was subjected to confiscation proceedings in

Confiscation Case No. 34 of 2021-222, before the Confiscating Authority, namely, Land Reforms Deputy Collector, East, Muzaffarpur. The same culminated in order dated 08.02.2022, confiscating the vehicle. The said order has been assailed in the instant writ proceedings.

3. The petitioner has alleged that the same was passed without hearing him and is violative of principle of natural justice. The order, on the other hand, records that notice was issued in a *hindi* local daily on three (3) dates, notifying the date of hearing in the confiscation proceedings. However, the petitioner, who claims to be owner of the vehicle in-question, did not appear in the proceedings. The proceedings, thus, concluded *ex-parte*.

4. The petitioner has thereafter preferred appeal against the order of the Confiscating Authority. The Appeal was registered as Excise Appeal Case No. 371 of 2022 and disposed of on 21.06.2022. Perusal of the order passed by the Excise Commissioner reveals that the matter was remanded to the Land Reforms, Deputy Collector, East Muzaffarpur, for writing order afresh within 30 days after affording opportunity to the petitioner.

5. There is no averment made in the writ petition that after remand of the matter under order of the Appellate Authority, dated 21.06.2022, the petitioner has taken any steps to appear before the Confiscating Authority. Seven (7) months later, petitioner has approached this Court by way of the instant writ proceedings seeking quashing of the order dated 08.02.2022 passed by the Confiscating Authority, in spite of the fact that the Appellate Authority has already directed the Confiscating Authority, under order dated 21.06.2022, to reconsider the matter after affording opportunity to the petitioner and to pass fresh orders.

6. Thus, no case is made out for interference with the order/s dated 08.02.2022, passed by the Confiscating Authority as well as 21.06.2022, passed by the Appellate Authority. Writ petition is misconceived.

7. In the circumstances, learned counsel for the State submits that the only remedy available to the petitioner, now is for release of the vehicle, upon payment of penalty, as per Section 57(B) of the Act read with 12(A) of the Bihar Prohibition and Excise Rules, 2021.

8. We would only observe that the petitioner would be at liberty to avail his statutory remedy, as noted above, if vehicle in-question has not been auction sold or otherwise disposed of in terms of the statutory provisions.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

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