

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17114 of 2023

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Kamod Chaudhary Son of Shiv Shankar Chaudhary, resident of Village-Shanti Nagar, Ward No. 5, P.S.-Chakiya, District-East Champaran.

... .. Petitioner.

Versus

1. The State of Bihar through the Principle Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Principle Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
3. The Collector-cum-District Magistrate, East Champaran.
4. The Superintendent of Police, East Champaran.
5. The Superintendent of Excise, East Champaran.

... .. Respondents.

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Appearance :

For the Petitioner : Mr. Abhishek Kumar, Advocate.
For the State : Mr. Anirban Kundu (SC-24).

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 08-12-2023

In the instant writ petition, the petitioner has
prayed for the following relief(s):

- (a) To issue an appropriate writ/order/
direction in the nature of writ of
Mandamus directing the respondent
Collector to release Scorpio bearing
registration no.BR05PA2623, which
has been illegally seized by the S.I. in
Chakiya P.S. Case No.278 of 2022
dated 3.7.2022 instituted for the



offences under sections 420, 467, 468, 472, 34 of the Indian Penal Code and 30(a), 31, 32, 36, 38, 41 of the Bihar Prohibition and Excise Act, 2016.

- (b) To grant any other relief or reliefs for which the petitioner is found to be entitled in the facts and circumstances of the case.

2. For issuance of writ of mandamus, there must be demand before the competent authority and further the concerned competent authority must have statutory duty to decide the grievance of the petitioner with reference to his demand. The first ingredient relating to demand before the competent authority insofar as release of Scorpio bearing Registration No.BR05PA2623 which is seized in P.S. Case No.278 of 2022 dated 03.07.2022 in Chakiya Police Station is not forthcoming. Therefore, the present writ petition is not maintainable so as to issue writ of mandamus under Article 226 of the Constitution of India. Hence, the present writ petition stands disposed of as premature.

3. Disposal of the present writ petition would not be a hurdle for the petitioner to invoke remedy under Rule 12A of the Bihar Prohibition and Excise Rules, 2021, amended Rules 2022 and read with amended Rules, 2023. It is learnt that Sub



Rule 2 of Rule 12A of the Bihar Prohibition and Excise Rules, 2021 is stated to have been replaced by virtue of amended Rules, 2023. The petitioner is hereby directed to file an application for the purpose of release of the subject matter of the motor vehicle in the prescribed form. If such application is filed, the concerned authority is hereby directed to decide the petitioner's grievance in the light of the aforementioned statutory provisions within a period of two weeks from the date of the receipt of the petitioner's application.

4. With the above observation, the present writ petition stands disposed of.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.12.2023.
Transmission Date	NA

