

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4161 of 2024

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Ankesh Kumar Alias Ankesh Yadav Son of Ram Vinay Yadav Resident of
Village- Aavghat Ward No. 3, P.S.- Sahebpur Kamal, District- Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Excise Department, Government of Bihar, Patna.
3. The Additional Collector-cum-Additional District Magistrate, Khagaria.
4. The Sub Divisional Officer, Khagaria.
5. The Superintendent of Police, Khagaria.
6. The Deputy Superintendent of Police, Khagaria.
7. The Inspector Excise-Cum-S.H.O. Excise Police Station Khagaria.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jai Prakash Singh, Advocate
For the Respondent/s : Mr. Government Pleader 3

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY

ORAL JUDGMENT

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

Date : 18-03-2024

Heard learned counsels for the respective parties.

2. In the instant writ petition, petitioner has prayed for
the following relief/reliefs:

*“(i) For issuance of an appropriate
writs, orders or directions for quashing the order
dated 5.12.2023 passed in Excise Confiscation
Case No. 43/2023-24 (arising out of Excise Case
No. 896 C 03/2023) by the Additional Collector-
Cum-Additional District Magistrate, Khagaria,
whereby and where under gave a direction to the*



petitioner to deposit the 50% amount Rs. 47,025/- out of Rs. 94,050/- of valuation of vehicle in connection with Excise Case No. 896 C3/2023 dated 8.9.2023 of seized Motorcycle bearing Registration No. BR09AG – 3861 in the light of Notification No.3671 dated 31.5.2023 of Bihar Prohibition and Excise Act 2023.

(ii) For issuance of appropriate writs, orders or directions to release the seized Motorcycle bearing Registration No. BR09AG-3861, Chassis No. MD634AE82L2B13930, Engine No. AEBBL 2914410 which was seized by the Police on 8.9.2023 in connection with Excise Police Station Khagaria F.I.R. No. 355/2023 and Excise Case No. 896C3/2023 instituted for the offence u/s 30 (a) and 56 (2) of the Bihar Prohibition and Excise Act 2016 (Amended 2018).

(iii) To grant of any other relief or reliefs for which as your Lordships may deem fit and proper in the facts and circumstances of the case.”

3. Petitioner has statutory remedy of appeal before the appellant authority under Section 92 of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as ‘Excise Act, 2016’). Without exhausting such remedy, he has rushed to this Court. Confiscating authority’s order could have been interfered only on two counts *namely* if it is by an incompetent authority or violation of any statutory Rules. Both the ingredients have not been apprised by the petitioner. Therefore, the present petition is premature.

4. Accordingly, present writ petition stands disposed of reserving liberty to invoke remedy of appeal before the appellate authority under Section 92 of the Excise Act, 2016 within a period of four weeks from today. The appellate authority is hereby



directed to ignore the delay in the light of Co-ordinate Bench decision in the case of *Sunaina @ Sunaina vs. The State of Bihar and others* passed in CWJC No. 7920 of 2023 dated 30.01.2024.

5. The appellate authority is hereby directed to consider interim prayer if any application is submitted along with memorandum of appeal. Till filing of memorandum of appeal, the concerned authority is hereby directed to not to auction the subject matter of motor vehicle seized in Excise Case No. 896C3/2023 dated 8.9.2023 and motor vehicle bearing No. BR 09 AG 3861.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.03.2024
Transmission Date	NA

