

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2584 of 2024

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Rupam Kumari Wife of Amarjeet Kumar, Resident of Ward No. 4, Pahsara,
P.S. Nawkothi, District Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise,
Government of Bihar, Patna.
2. The District Magistrate, Banka.
3. The Superintendent of Police, Banka.
4. The Land Reforms Deputy Collector, Banka.
5. The Officer-in-Charge, Bausi Police Station, District Banka.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Pandey, Advocate
For the Respondent/s : Mr.Standing Counsel 25

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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 : 19-03-2024

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

*“(i) For issuance of any other
appropriate writ/writs, order/orders,
direction/directions in the nature of
Certiorari to quash the order contained in
memo no. 59 dated 06.01.2024, by which
the petitioner’s vehicle bearing
registration no. BR-09PA-3479 be
released from custody on deposit of 20%
of insurance value of the seized vehicle
i.e. Rs. 4,70,000/-, alongwith 3%
amounting Rs.14,100/- on account of
maintenance during detention period of*



the vehicle within 15 days as the vehicle of the petitioner bearing registration no. BR-09PA-3479 was seized in Bausi P.S. Case No. 254/23 dated 24.08.2023 registered under section 30(a) of Bihar Prohibition and Excise Act, 2018, which is illegal and not in accordance with the Bihar Prohibition and Excise (Amendment) Act, 2023 and wrongly interpreted by the respondent no. 4- Land Reforms Deputy Collector, Banka while deciding the issue for release of the vehicle in favour of petitioner in Excise Confiscation Case No. 76/2023-24.

(ii) For issuance of an appropriate writ, order or direction to the concerned authority to release the aforesaid bus bearing Registration No. BR-09PA- 3479 Engine No. KJEZ401531, Chesis No. MB1PREHD8KEJC8649, which has been seized in connection with Bausi P.S. Case No. 254/23 dated 24.08.2023 under section 30(a) of the Bihar Prohibition and Excise Act, 2018 and kept in the premises of Bausi Police Station, Banka, as the petitioner is ready to fulfill the condition laid down under section 2(ii) of Bihar Prohibition and Excise (Amendment) Act, 2023.

(iii) Any other relief/reliefs to which the petitioner is entitled too in the facts and circumstances of the case.”

2. Petitioner is owner of bus bearing no. BR-09PA-3479 which was seized in connection with P.S. Case No. 254 of 2023 dated 24.08.2023 in Bausi P.S. for the offences under Section 30(a)



of Bihar Prohibition and Excise Act, 2018 read with Bihar Prohibition and Excise Amendment Act, 2023.

3. Confiscation Case No. 76 of 2023-2024 was proceeded and it has attained finality. Confiscation Authority proceeded to pass order on 06.01.2024 while fixing the fine amount of Rs. 4,70,000/- (Rupees Four Lakh Seventy Thousand Only) along with 3% at Rs. 14,100/- (Rupees Fourteen Thousand One Hundred Only) overall it could be Rs. 4,84,100/- (Rupees Four Lakh Eighty Four Thousand One Hundred Only). Rs. 4,70,000/- is stated to have been determined with reference to 20% of the insurance value of the seized vehicle.

4. Feeling aggrieved by the order dated 06.01.2024, petitioner presented this petition. Petitioner has statutory remedy of appeal before the Appellate Authority under Section 92 of Bihar Prohibition and Excise Act, 2018. Without exhausting remedy of appeal, he has rushed to this Court.

5. Learned counsel for the petitioner submitted that fixation of fine would be too harsh, and it is arbitrary having regard to that fact that quantum of liquor seized is 18 litres. This Court cannot examine quantum and modify the quantum, as it touches the merits and demerits on factual aspects of the matter. Even though on face of the record, imposition of fine of Rs.



4,70,000/- along with 3% Rs. 14,100/- would be harsh. The same shall be taken note of by the Appellate Authority as and when petitioner preferred appeal before the Appellate Authority.

6. Petitioner is hereby directed to file Memorandum of Appeal before the Appellate Authority within a period of three weeks from today. On receipt of petitioner’s Memorandum of Appeal. The Appellate Authority is hereby directed to decide the petitioner’s appeal within a period of two months.

7. The Appellate Authority is hereby directed to take note of quantum of fine at Rs. 4,70,000/- along with 3% Rs. 14,100/- may be on higher side. The same shall be examined at the time of deciding the appeal on merit.

8. Accordingly, the present petition stands disposed of.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

abhishekk/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.03.2024
Transmission Date	NA

