

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5186 of 2024

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Santosh Kumar S/o - Late Banka Bhagat, Resident of Village- Shahpur,
Pakadiya, P.S. - Gopalpur, District - Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Bihar Prohibition and Excise Department, Bihar Patna.
2. The District Magistrate, Gopalganj.
3. The Superintendent of Police, Gopalganj.
4. The Officer in Charge of Kateya Police Station, District- Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Harendra Prasad, 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 : 07-05-2024

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

a. "For issuance of an appropriate writ in the nature of mandamus & certiorari commanding and directing the respondent authorities to release to release the Mahindra Bolero of the petitioner bearing Reg. no. UP57E3789 and having Chesis no. MAIXA2GAK72B14978, Engine no. GF74B56466, seized by MAIXARIAK 72814978 Kateya police case No. 443/2023, Siwan in connection with Kateya P.S case no. 443/23 registered U/S-414 of IPC and 30(a) of Bihar Excise Act 2018, in favor of the petitioner or his representative."



b. For the issuance of any other relief/reliefs to which the petitioner may be found entitled in the facts and circumstances of the case in favor of the petitioner.”

2. The alleged offence is stated to have been committed on 07.10.2023 and as on today the confiscation proceedings have not attained finality. That apart, the petitioner has not approached the concerned authority in seeking release of the subject matter of the motor vehicle bearing Registration No. - UP57E3789 (Mahindra Bolero). The petitioner has remedy of submission of application under Rule 12A of the Bihar Prohibition and Excise Rules, 2021 read with amended sub Rule 2 of Rule 12A in the year 2022 and 2023. Before invoking the aforementioned provisions and approaching the concerned authority, the petitioner has rushed to this Court. Be that as it may, even there is no representation. For seeking writ of mandamus, there must be a demand before the competent authority. At the same time, duty is cast on the concerned public authority. The first ingredient of demand before the competent authority is not forthcoming.

3. Accordingly, the present writ petition is premature and it stands disposed of as not maintainable.

4. Disposal of the present writ petition would not be a hurdle for the petitioner to invoke remedy under Rule 12A of



Bihar Prohibition and Excise Rules, 2021 including amended provisions in the year 2022 and 2023. If such application is submitted before the competent authority in the prescribed form, the concerned authority is hereby directed to consider the petitioner’s grievance within a period of two weeks from the date of receipt of such application under Rule 12A of Bihar Prohibition and Excise Rules, 2021 including amended provisions in the year 2022 and 2023.

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

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	14.05.2024
Transmission Date	N/A

