

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4413 of 2023

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Sharda Devi, W/o-Late Brij Nandan Singh, Resident of Village- Bharatpur
Simli near Gandhi School, Sampatchak, PS-Sampatchak, District.-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary Govt. of Bihar, Patna.
2. Additional Chief Secretary to the Govt. of Bihar, Prohibition Excise and
Registration Department, Patna.
3. Excise Commissioner, Bihar Patna.
4. Collector, District-Patna.
5. S.S.P. Patna.
6. SHO Malsalami Police Station, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ebrahim Kabir, Advocate
		Ms. Shruti Sinha, Advocate
For the Respondent/s	:	Mr. Vikash Kumar, SC-11

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 13-08-2024

The petitioner is aggrieved with the seizure of her premises, from which premises, 643.770 litres of foreign liquor was seized. The Collector had taken confiscation proceedings under Section 56 of the Bihar Prohibition and Excise Act, 2016. The petitioner filed an appeal before the Excise Commissioner in which the Excise Commissioner found that the petitioner could as well seek remedy under Rule 12B of the Bihar Prohibition and Excise Rules, 2021 (for brevity 'the Rules'). The petitioner filed a revision from the order of the Excise



Commissioner, which was disposed of by Annexure-10 by the Additional Chief Secretary. The Additional Chief Secretary found that sufficient relief has been granted by the Excise Commissioner insofar as permitting the petitioner to approach the Collector for release of the premises on imposition of a penalty as provided under Rule 12B.

2. Rule 12B, as amended in the year 2021, provides for release of premises on payment of penalty in lieu of confiscation. As per sub-rule (2) of Rule 12B of the Rules, the Collector or the authorized officer shall have due regard to the economic status of the individual, nature of his involvement in the crime, location of the premises and the quantum of intoxicant recovered while deciding the quantum of penalty to be imposed as prescribed under the rules, which at the minimum shall be Rs. One lakh. The Collector has been given the discretion to impose penalty on the basis of the various factors, to be decided by him, at his discretion.

3. We would have normally remanded the matter to the Collector, but we are persuaded to dispose of the matter, especially looking at the findings of the Additional Chief Secretary who was dealing with the revision filed by the petitioner.



4. The petitioner's specific contention before the statutory authorities was that the said premises was given on rent to another. It was the tenant who kept the contraband in the premises and the tenant has been accused of the offence and the landlord has not been arrayed as the accused; even in the F.I.R. The revisional authority, who considered the revision, has found in his order that the learned Advocate appearing for the revision petitioner substantiated the claim of tenancy by adducing a rent agreement between the revision petitioner's youngest son and one of the accused, namely, Raju Kumar.

5. The Additional Chief Secretary also noticed on facts that on 22.08.2020 at 5:00 P.M., on information received, a police party of Kankarbagh Police Station apprehended a liquor trader from the premises and recovered the contraband. The accused in the confessional statement had agreed to the involvement in liquor trade and mentioned also the involvement of five other accused, who were also apprehended. These were the only persons who were arrayed as accused in the F.I.R. registered. The landlord has not been accused of liquor trade or even keeping contraband liquor in the premises. In such circumstance, it is very clear that she has no involvement in the crime; which is one of the factors that should regulate the



consideration of the quantum of penalty by the Collector.

6. In the above circumstances, we find that a remand to the Collector would be a useless formality and in such circumstance, we are of the opinion that the penalty at the minimum can be imposed on the petitioner, who was the landlord and who has not been accused of the crime. In the nature of the orders to be passed, the learned Counsel submitted that he would not press the challenge against the provision.

7. The writ petition, hence, is disposed of directing the petitioner to pay the penalty of Rs. One lakh to the District Collector within a period of one month from the date of uploading of this judgment upon which the property shall be released under Rule 12B of the Rules.

8. The writ petition stands allowed with the above direction.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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CAV DATE	N/A
Uploading Date	14.08.2024
Transmission Date	N/A

