

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5958 of 2024

=====

Wakil Rai @ Wakil Ray S/o - Dharmnath Ray, Resident of - Jalalpur Kala
ward no. - 11, P.S.- Sidhwaliya, District - Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise and Prohibition Department, Bihar, Patna.
2. The Additional Chief Secretary, Excise Department, Govt. of Bihar, Patna.
3. The Excise Commissioner, Head Quarter Bihar, Patna.
4. District Magistrate, Gopalganj.
5. The Superintendent of Police, Gopalganj.
6. The Superintendent of Police Excise, Gopalganj.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Pritish Ranjan, Advocate
For the Respondent/s : Mr. Government Pleader 3

=====

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

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

3 23-04-2024 In the instant petition, petitioner has prayed for the
following relief(s):-

“A For issuance of an appropriate writ/writs, order/orders in the nature of Mandamus directing the respondents to release and discharge the property from any charges labelled on the Car Registration no. BR-28-Q-0236 which has been wrongly seized by Police in connection with Kateya P.S. Case No. 497/2023 instituted on dated 24-11-2023 for the offences alleged under section-30(a) of the Bihar Prohibition and Excise Amendment Act 2018.

B. For issuance of any other relief/reliefs to which the petitioners are found



entitled under the facts and circumstances of the present case.”

2. The alleged offence is stated to have been committed on 24-11-2023 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. BR-28-Q-0236, (Car). 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)

amitkumar/-

U			
---	--	--	--

