IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3821 of 2023

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Karu Singh @ Shayam Sundra Sharma Son of Naresh Singh @ Naresh Sharma, Resident of Village- Chhotki Dhawa, P.S.- Ekangarsarai, District- Nalanda.

... ... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary, Government of Bihar, Patna.
3. The Principal Secretary, Excise Department, Government of Bihar, Patna.
4. The Director General of Police, Bihar, Patna.
5. The Excise Commissioner, Bihar, Patna.
6. The Inspector General of Police, Bihar, Patna.
7. The District Magistrate-cum-Collector, Nalanda.
8. The Additional District-cum-Collector, Nalanda.
9. The Superintendent of Police, Nalanda.
10. The Sub-Divisional Officer, Nalanda.
11. The S.H.O., Ekangarsarai Police Station, Nalanda.
12. The Investigating Officer, Ekangarsarai P.S. case No. 54/2020, Ekangarsarai Police Station, Nalanda.
13. Abhinav Mrinal Son of Awdhesh Kumar Singh, Resident of Village- Nagar Hilsa, P.S.- Hilsa, District- Nalanda.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ansul, Advocate Mr. Sakshi Bhatnagar, Advocate Mr. Shyam Kishore, Advocate Mr. Aditya Pandey, Advocate Ms. Eashita Raj, Advocate
For the Respondent/s	:	Mr. Vivek Prasad, GP 7

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 18-12-2024

In the instant writ petition, petitioners have prayed for the following reliefs:

> *"A. A writ in the nature of CERTIORARI or any other appropriate writ/s, order/s, direction/s quashing the following:*
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> *i. The order dated 14.10.2022 vide Memo No. Excise Rev. Case No. 199/2022-246 passed in Excise Revision No. 199/2022 whereby and where under the Additional Chief Secretary, Bihar, Patna (Respondent No. 2) uphold the order dated 11.01.2022 passed by the Learned Excise Commissioner, Bihar Patna in Excise Appeal No. 881/2021 in which the learned Commissioner has confirmed the order dated 01.10.2021 passed by the Learned Additional Collector – cum- Additional District Magistrate, Nalanda in Excise Confiscation Case No. 65/2021 (in connection with Ekangarsarai P.S. Case No. 54 of 2020) and direction the learned Additional Collector – cum- Additional District Magistrate, Nalanda to proceed with auction in the confiscation proceeding as per the Act. (Annexure – 7)*
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> *ii. The order dated 13.03.2021 passed by the learned Additional District Magistrate – cum – Additional District Collector, Nalanda (Respondent No. 8) in Confiscation (Excise) Case No. 65 of 2021 (Annexure – 3) whereby and where under he has directed to the Superintendent Excise Prohibition, Nalanda, to take valuation report of Scorpio Vehicle bearing registration no. BR01PK – 7002, which was seized in connection with Ekangarsarai P.S. Case No. 54/2020 registered for the offence under Section 30 (a) of Bihar Prohibition and Excise Act 2018, from the Motor Vehicle Inspector, Nalanda and sale the vehicle in open market and deposit the collected money into the government treasury.*

iii. The order dated 11.01.2022 passed by the Commissioner, Excise, Bihar, Patna (Respondent No. 4) in Excise Appeal case No. 881 of 2021 (Annexure – 5) whereby and where under he has upheld the order dated 13.03.2021 passed by the learned Additional District Magistrate – Cum – Additional District Collector, Nalanda (Respondent No. 8).

iv. The auction order (Parwana) dated 13.05.2021 passed by the S.D.O, Hilsa (Nalanda) by which the vehicle of the Petitioner auctioned in the favour of one Abhinav Mrinal.

B. A writ in the nature of MANDAMUS or any other appropriate writ/s, order/s directing the Respondent Authorities the following :

I. To release the Scorpio Vehicle bearing Reg. No. BR01PK 7002 which was seized in connection with Ekangarsarai P.S. Case No. 54/2020 registered for offence under section 30 (a) of the Bihar Prohibition & Excise Act, 2018.

ii. To hold that the orders / actions (Annexures – 3, 5 & 7) of the Respondent Authorities are not tenable in the eye of law and violative to Article 300A of the Constitution of India.

iii. To hold the orders / actions (Annexure – 3, 5 & 7) of the Respondent Authorities amounts to double jeopardy.

iv. To hold that the orders dated 13.03.2021, 11.01.2022 and 14.10.2022 passed by the Respondent Nos. 8, 5 and 2 respectively are null and void."

2. The petitioner's vehicle bearing Registration No. BR01PK 7002 was alleged to have been involved for the offence under the Excise Act. In this regard, Ekangarsarai P.S. Case No. 54 of 2020 was registered on 02.03.2020. After more than one year, confiscation proceedings have been concluded on 13.03.2021, thereafter, subject matter of vehicle was proceeded to auction on 13.05.2021. Resultantly, third party auction purchaser right has been created. Be that as it may, petitioner has preferred appeal before the appellate authority in questioning the validity of the confiscation order dated 13.03.2021 and it was dismissed on 11.01.2022. Thereafter, petitioner approached this Court in filing CWJC No. 5367 of 2022 and it was disposed of on 10.05.2022 while giving opportunity to the petitioner to invoke remedy of filing revision before the Revisional Authority under Section 93 of the Bihar Prohibition and Excise Act, 2016. The petitioner has exhausted the revision petition and suffered an order on 14.10.2022. Hence, the present writ petition.

3. Learned counsel for the petitioner vehemently contended that subject matter of vehicle has not been seized arising out of any Excise offence, for the reasons that no liquor has been seized other than the subject matter of vehicle and it is not disputed by the learned counsel appearing on behalf of the respondents. It is also submitted that from the seizure memo, it is crystal clear that there is no iota of material evidence established that they have seized liquor along with subject matter of vehicle.

4. Learned counsel for the respondents could not overcome the seizure memo and factual aspects of the matter so as to contend that subject matter of vehicle was involved in recovery of liquor. In the light of these facts and circumstances, petitioner has made out a case so as to interfere with the impugned orders dated 14.10.2022, 13.03.2021, 11.01.2022 and 13.05.2021, they are set aside.

5. The petitioner is entitled to have the benefit of compensation insofar as recovery of the subject matter of vehicle and its auction read with the third party right created. The respondents have not taken specific contention as on the date of seizure of the vehicle, petitioner's vehicle was insured or not? Be that as it may, perusal of the later insurance policy the vehicle has been valued by the Insurance Company at the time of renewal of insurance policy during the period from 23.11.2020 to 22.11.2021 at Rs. 9,00,000/- (Rupees Nine Lakhs). Therefore, the concerned respondents are hereby directed to pay a sum of Rs. 9,00,000/- (Rupees Nine Lakhs) to the petitioner irrespective of the auction amount realized by the respondents. The respondents have also not highlighted in what manner the auction proceedings have been undertaken insofar as evaluating the value of subject matter of vehicle and without verifying the insurance policy read with the vehicle condition and other details. In other words, randomly they have determined particular value of the vehicle and proceed to auction the subject matter of vehicle.

6. From the inception proceedings insofar as seizure of the subject matter of vehicle is with highhandedness for the reasons that in the absence of seizure of any liquor the subject matter of vehicle has been seized for the offence under the Excise Act. The petitioner has been harassed for almost two years and few months in view of the fact that Ekangarsarai P.S. Case No. 54 of 2020 case was registered on 02.03.2020 and revision petition was decided on 14.10.2022. That apart, petitioner was compelled to approach this Court on two occasions in filing CWJC No. 5367 of 2022 and the present CWJC No. 3821 of 2023. Resultantly, petitioner is entitled to litigation cost and it is quantified at Rs. 25,000/- (Rupees Twenty Five Thousands) along with 9,00,000/- (Rupees Nine Lakhs) towards value of the vehicle shall be paid to the petitioner by the concerned respondent within a period of two months from the date of receipt of copy of this order.

7. Further, State exchequer has been put into financial loss on account of certain misdeeds committed by the erring officials insofar as recovery of the subject matter of vehicle read with so many proceedings like confiscation, auction, appeal proceedings, writ petition proceedings and revisional proceedings and further, the present CWJC No. 3821 of 2023. At every stage, the State has been put into financial loss and it is to be recovered from the erring officials. In this regard, the disciplinary authority is hereby directed to initiate disciplinary proceedings under the relevant CCA Rules and conclude the disciplinary proceedings within a period of one year from the date of receipt of copy of this order. Final decision to be passed in the disciplinary proceedings against such of those erring officials shall be placed on record after one year. Registry shall record the same as and when such material is placed by the respondents.

8. Accordingly, present CWJC No. 3821 of 2023 is allowed.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.12.2024
Transmission Date	NA