

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4793 of 2024

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Adarsh Kumar (M), aged about 32 years, son of Shri Birendra Kr. Singh, Village - Saraithala, Police Station - Dhanbad, District - Dhanbad (Jharkhand), Permanent resident of Village- Dhanauta, Rukundipur, Police Station - Darranda, District- Siwan. Address as per aadhar is resident of Flat No. 17/B, 02nd Floor, Ganga Apartment, Vastu Vihar, Kola Kushma, Near Hanuman Mandir, Dhanbad, Nichitpur, Jharkhand.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Excise Department, Govt. of Bihar, Patna.
3. The Excise Commissioner, Govt. of Bihar, Patna.
4. The Collector-cum-District Magistrate, Lakhisarai.
5. The Superintendent of Police, Lakhisarai.
6. The Inspector of Excise, Badahiya, Lakhisarai.
7. The Police Sub Inspector- cum-Officer In-Charge, Badahiya Police Station, Lakhisarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Umesh Kumar Mishra, Advocate
For the Respondent/s : Mr. Government Advocate 5

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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 : 18-03-2024

Heard learned counsels for the respective parties.

2. In the instant writ petition, petitioner has prayed for
the following relief/reliefs:

*“I. For issuance of an appropriate writ in the
nature of mandamus for commanding and directing the
respondent authorities concerned to release the Baleno*



vehicle of the petitioner bearing Registration No/Vehicle No. JH-10CL-0325, Chassis No. MBHHWB13SND137188, Engine No. K12NP7035114, which has arbitrarily been seized by the Badahiya Police Station, District – Lakhisarai in connection with Badahiya P.S. Case No. 31/2023 dated 10.02.2023 (District – Lakhisarai) registered for the offences under Section 30 (a) of the Bihar Excise and Prohibition Amendment Act, 2018.

II. For issuance of an appropriate writ in the nature of mandamus for commanding and directing the District Magistrate, Lakhisarai to dispose of the representation/appeal of the petitioner dated 05.02.2024 by which, the petitioner has requested for release of his vehicle and has also stated that he is ready for payment of fine for release of his vehicle but till date the said representation/appeal of the petitioner has not been disposed of.

III. For issuance of any other appropriate writ/writs, order/order, direction/directions for which the writ petitioner will be found entitled in the facts and circumstances of the case.”

3. For issuance of writ of mandamus there must be demand before the competent authority followed by statutory duty vested in the public authority. In the absence of these materials, question of issuance of writ of mandamus for release of the subject matter of motor vehicle is impermissible. Further, the petitioner has remedy of submission of application under Rule 12 A of the Bihar Prohibition and Excise Rules, 2021 (for short ‘Rules, 2021’)



read with amended sub Rule (2) of Rule 12 A in the year 2022 and 2023.

4. The petitioner has submitted representation on 05.02.2024 and it is not in terms of prescribed format under Rule 12 A of Rules, 2021 read with amended sub Rule (2) of Rule 12 A in the year 2022 and 2023. Accordingly, present writ petition is premature and it stands disposed of as not maintainable.

5. Disposal of the present writ petition would not be a hurdle for the petitioner to approach the concerned authority under Rule 12 A of the Rules, 2021 read with amended sub Rule (2) of Rule 12 A in the year 2022 and 2023. If such application is submitted in the prescribed format, the concerned authority is hereby directed to proceed to decide the petitioner’s case within a period of two weeks from the date of receipt of such application under Rule 12 A.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

GAURAV S./-

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

