

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5777 of 2024

=====

Bihari Ray @ Bihari Bhar S/o Late Dahari Ray, Resident of Village-
Dehariya, P.S.- Itadhi, District- Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Bihar Excise Department, Patna at Patna.
2. The Commissioner, Bihar Excise Department, Patna at Patna.
3. The Collector, District of Buxar at Buxar.
4. The Sub Divisional Magistrate, Buxar Sadar at Buxar.
5. The Superintendent of Police, Buxar.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Arun Kumar Gupta
For the Respondent/s : Mr.Standing Counsel (25)

=====

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 25-04-2024

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

*“That this writ application is being
filed on behalf of above named
petitioner for setting aside order dated
14.12.2023 passed in Case No.
123/2023 / 428/2023 (confiscation)
arising out of Itadhi P.S. Case No. 194
of 2023 for offence under Section 30(a)
of Bihar Prohibition and Excise Act,
2018 by Sub Divisional Magistrate,
Buxar Sadar, Buxar whereby and where
under land bearing Mauza-Dihariya,
Thana No. 437, Khata No. - 115, Plot*



no. 67, area – 24 decimal was confiscated and further directed to proceed auction the confiscated land.”

2. Petitioner has a statutory remedy of filing appeal under Section 92 of the Bihar Prohibition and Excise Act, 2016 (for short Act, 2016). Without exhausting such statutory remedy he has rushed to this Court.

3. Learned counsel for the petitioner submitted that confiscating authority has violated Section 62 of the Act, 2016 before passing the impugned order. If it is so, the same could be urged before the appellate authority. Petitioner is also permitted to file interlocutory application seeking stay of the confiscation proceedings in the memorandum of appeal to be filed.

4. Accordingly, the present C.W.J.C. No. 5777 of 2024 stands disposed of, reserving liberty to the petitioner to invoke remedy under Section 92 of the Act, 2016.

5. The appellate authority is requested to not to insist for any limitation issue, in view of the fact that under the Act, 2016, there is no time limit stipulated for the purpose of invoking under Section 92. If such memorandum of appeal is filed, the concerned appellate authority is hereby directed to decide the petitioner's appeal within a period of three months



from the date of receipt of such appeal. If any interim application is made, the same shall be considered and decided within a period of 15 days from the date of receipt of such memorandum of appeal.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

alok/-

AFR/NAFR	N/A
CAV DATE	N/A
Uploading Date	27.04.2024.
Transmission Date	N/A

