

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5747 of 2024

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1. Prabhu Sahni, Son of Lakhan Sahni, Resident of Village- Munni, P.S.- Pier Hathatha, O.P.- District- Muzaffarpur.
 2. Premshila Devi, Wife of Prabhu Sahni, Resident of Village- Munni, P.S.- Pier Hathatha, O.P.- District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise, Prohibition and Registration, Bihar, Patna.
2. The Collector-cum-District Magistrate, Muzaffarpur.
3. The Senior Superintendent of Police, Muzaffarpur.
4. The Sub-Divisional Magistrate, East Muzaffarpur.
5. The S.H.O., O.P. Haththa, Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Raju Kumar, Advocate
For the Respondent/s	:	Mr. Sunil Kumar Mandal, SC-3
		Mr. Bipin Kumar, AC to SC-3

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

Date : 03-04-2024

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

*“(I) To issue an appropriate order/s,
direction/s including a writ preferably in the nature
of mandamus commanding upon the respondent
No.5 (Hereinafter referred to as confiscating
authority under Section 58 of the Bihar Prohibition*



and Excise (Amendment) Act, 2022 to release the premises in favour of petitioners measuring an area 0.25 (1/4) decimal appertaining to Khata No. 320 Chak Cheksara No. 1130 situated in Mauza-Munni Bangri, P.S. Bandri, District-Muzaffarpur sealed seized in connection with Pier (Haththa) P.S. Case No. 141 of 2021 for the offences punishable under Sections 272, 273/34 of the Indian Penal Code read with section 30(a) of the Bihar Prohibition and Excise Act 2016-18.

(ii) To quash the order dated 20.01.2024 passed in Confiscation Case No. 80/2022 as contained in memo No. 197 dated 22.02.2024 passed by the respondent No.3 of confiscating premises of the petitioners in exercise powers under Section 58 of Bihar Prohibition and Excise Amendment Act 2022 in connection with aforesaid case.

(iii) To direct the respondent No.3 to release the premises of the petitioners mentioned hereinbefore interms of section 12B of Bihar Prohibition and Excise Amendment Act, 2022.



(iv) To any other relief/s to which the petitioner may be found entitled in the facts and circumstances of the case.”

2. The petitioners have remedy of submission of application under Rule 12B of the Bihar Prohibition and Excise Rules, 2021 read with amended sub Rule 2 of Rule 12B 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 petitioners to invoke remedy under Rule 12B 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



petitioners’ grievance within a period of two weeks from the date of receipt of such application.

5. With the above observations, the present writ petition stands disposed of.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

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AFR/NAFR	N.A.F.R
CAV DATE	N.A
Uploading Date	10.04.2024
Transmission Date	N.A

