

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7271 of 2024

Manoj Prasad Son of Suresh Prasad, Resident of Village- Mirpur, Post Office- Sanjalpur, P.S. Andar, District- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Excise, Government of Bihar, Patna.
3. The Excise Commissioner, Patna Division, Patna.
4. The District Collector cum District Magistrate, Rohtas at Sasaram.
5. The Assistant Commissioner, Excise, Rohtas at Sasaram.
6. The Officer-in-Charge, Bhanas Police Station, Rohtas at Sasaram.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ajay Kumar Pandey
For the Respondent/s : Mr.Addl. Advocate General (12)

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

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

5 02-08-2024 In the instant petition, petitioner has prayed for the following reliefs :-

“I) A direction may be given to the respondent no. 4 and 5 i.e. the District Collector cum District Magistrate, Rohtas at Sasaram and the Assistant Commissioner, Excise Rohtas at Sasaram for recovery of vehicle which was auctioned to the petitioner vide order dated 22.12.2021 by the respondent no. 4 of the said vehicle Bolero vide registration no. JH-10Y-9116 of Rs. 73,000/- (Seventy Three Thousand only) under Bihar Prohibiton and Excise Act, 2016 under



Section 58(5). The said vehicle was seized by police under Section 30(a) of Bihar Prohibition and Excise Act in Dinara (Bhanas) P.S. Case No. 83 of 2019. Chassis No. MA1XA2GHKCSC22169 and Engine No. CHC4C80733, Registration No. JH-10Y-9116. The said vehicle was confiscated in Excise Confiscation Case No. 181 of 2020 and further seized by police at Varanasi at Uttar Pradesh.

(ii) And further be pleased to a further direction may be given to the respondent no. 3 and 4 for taking proper action with regard to the Memo No. 1739/M.NI dtd 30.06.2023 through which the Registration Number of the auctioned vehicle (Bolero) which was confiscated in Excise Confiscation Case No. 181 of 2020 arising out of Dinara (Bhanas) P.S. Case No. 181 of 2020 arising out of Dinara (Bhanas) P.S. Case No. 83 of 2019 the authority has corrected the Registration No. JH- 10Y-9116 of Chassis No. MA1XA2GHKCSC22169 and Engine No. CHC4C80733 may be read as Registration No. UP-65BD-0023, Chasis No. MA1XA2GHKCSC22169 and Engine No. CHC4C80733. Petitioner may be compensated by the due process of law.

(iii) Any other relief/reliefs may be granted to the petitioner as per the law of the land.”

2. Having regard to the fact that confiscation



proceeding has attained finality and thereafter subject matter of vehicle was already auctioned and 3rd party right has created, therefore, the present petition cannot be entertained on the score that petitioner has statutory remedy of appeal before the appellate authority under section 92 of the Bihar Prohibition and Excise Act, 2016 and further he has remedy of revision under section 93.

3. In the event of filing appeal before the appellate authority, the appellate authority is hereby requested to expedite the matter and decide the petitioner's appeal at the earliest.

4. With the above observations, the present petition stands disposed as premature.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

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