

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6846 of 2024

Geeta Devi w/o Gharabharan Sah R/o- Ladhi, P.S.- Goreya, Kothi, District-Siwan

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary Department of Excise, Bihar, Patna
2. The District Magistrate Gopalganj
3. The Superintendent of Police Gopalganj
4. The S.H.O. Kateya P.S., District- Gopalganj

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Deepankar Raj
For the Respondent/s : Mr.Standing Counsel (1)

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

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

2 23-04-2024 In the instant petition, petitioner has prayed for the following relief(s):-

“(i) For directing and commanding the respondent authorities to release the Vehicle namely Mahindra Maximo Mini Van bearing Registration No.-BR29-PA3041, Engine No.-MCG6C17929 and Chassis No.-MA1FB2MCRG6C33731 in favour of the petitioner which has been seized in connection with Kateya P.S. Case No.354 of 2023 registered on 01.08.2023 under Section 30(a) of Bihar Prohibition and Excise Act Amendment Act-2022.

ii. For directing and commanding the respondent authorities to release the Vehicle namely Mahindra Maximo Mini Van in the favour of the petitioner on the ground that the petitioner is the owner of



the said Vehicle and same is lying under open sky in the police station as nobody is there to take care of the motorcycle.

iii. For issuance of any other relief or relief(s) for which the petitioner is entitled for.”

2. The alleged offence is stated to have been committed on 01.08.2023 and as on today the confiscation proceedings have not attained finality. That apart, the petitioner has not approached the concerned authority in seeking release of the subject matter of the motor vehicle bearing Registration No. -BR29- PA3041 (Mahindra Maximo Mini Van). The petitioner has remedy of submission of application under Rule 12A of the Bihar Prohibition and Excise Rules, 2021 read with amended sub Rule 2 of Rule 12A 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 petitioner to invoke remedy under Rule 12A 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 petitioner’s grievance within a period of two weeks from the date of receipt of such application under Rule 12A of Bihar Prohibition and Excise Rules, 2021 including amended provisions in the year 2022 and 2023.

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

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

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