IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7312 of 2024

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Pinkesh Kumar @ Pinkesh Singh Son of Mukesh Singh Resident of Village-Nayagaon, Ward No. 01, Police Station-Nayagaon, District-Begusarai.

... ... Petitioner/s

Versus

1. The State of Bihar Through the Chief Secretary, Government of Bihar, Patna
2. The Additional Chief Secretary, Prohibition,Excise and Registration Department, Government of Bihar, Patna
3. The Excise Commissioner, Prohibition, Excise and Registration Department Government of Bihar, Patna
4. The District Magistrate-cum-Collector,Munger District-Munger
5. The Assistant Excise Commissioner, Munger Munger.
6. The Superitendent of Police, Munger District-Munger
7. The District Transport Officer, Munger District-Munger
8. The Station Head Officer, Munger Excise Police Station District-Munger

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Pushpendra Kumar Singh, Adv. Smt. Divya Bharti, Adv.
For the State	:	Mr.S.D. Yadav, AAG-9 Mr. Ashok Kumar Dubey, AC to AAG-9

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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 : 30-04-2024

In the instant petition, petitioner has prayed for the following reliefs:-

> *(i) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the order dated 16.02.2024/ 14.03.2024 passed by the Respondent no.4 in Excise Vehicle Confiscation Case No.388 of*

2023-24 communicated under memo no.1015 dated 14.03.2024, whereby and where under the Respondent no.4 has been pleased to direct the petitioner to deposit of 50% of the insured value of the seized vehicle of the petitioner Mahindra XUV 300 bearing Reg. No. BR01HH-9540 and additional 3% i.e. amounting Rs. 4,61,707/- (44,8259 + 13,448) which was seized in connection with Munger Excise P.S. Case No. 303 of 2023 dated 03.12.2023 registered for the offences under Section 414 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act, 2018 on the ground that the penalty imposed by the Respondent no.4 for release of the vehicle of the petitioner is exorbitant as also contrary to the Rule-12 A(2) of the Bihar Prohibition and Excise (Amendment) Rules, 2022.

(ii) For issuance of an appropriate writ in the nature of MANDAMUS, commanding and directing the Respondent Authorities to release the vehicle of the petitioner in question Mahindra XUV 300 bearing Reg. No. BR01HH-9540 which was seized in connection with Munger Excise P.S. Case No. 303 of 2023 dated 03.12.2023 registered for the offences under Section 414 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act, 2018 after imposing minimum penalty of 10% of insured value of the vehicle in view of the

provisions as contained under Rule-12 A(2) of the of the Bihar Prohibition and Excise (Amendment)Rules, 2022 (hereinafter referred to as the Amended Rules, 2022) as also several decisions of this Hon'ble Court in catena of cases.

(iii) For issuance any other appropriate writ/writs ,order/orders, direction/directions for which the writ petitioner would be found entitled under the facts and circumstances of the case.

2. The petitioner has not exhausted remedy of appeal before the Appellate Authority under Section 92 of the Bihar Prohibition and Excise Act, 2016.

3. Petitioner is at liberty to file appeal before the Appellate Authority within a period of four weeks from today. If such appeal is filed, the 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. In the meanwhile, the concerned authority shall not proceed to auction the subject matter of the motor vehicle, if it is not already auctioned as on this day, the same shall not be auctioned till disposal of the petitioner's appeal to be filed before the Appellate Authority.

4. We have noticed that there is no time limit for

filing appeal before the Appellate Authority. In such circumstances, the concerned authority was required to examine the circumstances and number of days of delay so as to come to the conclusion that appeal was filed within a reasonable period of time or not. In this regard, Appellate Authority is hereby directed to take note of Hon'ble Supreme Court decision in the case of **North Eastern Chemicals Industries (P) Ltd. and Another vs. Ashok Paper Mill (Assam) Ltd. and Another** reported in **2023 SCC Online SC 1649**.

5. Accordingly, the present writ petition stands disposed of.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

shahzad/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	06.05.2024
Transmission Date	N.A.