

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7093 of 2024

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Arun Kumar Thakur S/o Lala Thakur Resident of Village - Khadiha Kerka
(Khadaha), P.S. Khaira, District - Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Old Secretariat, Bihar, Patna.
2. The Principal Secretary, Department of Excise, Bihar, Patna.
3. The District Collector, Aurangabad, District - Aurangabad.
4. The Superintendent of Police, Aurangabad, District - Aurangabad.
5. The S.H.O., Narari Kala Khurd, P.S, District - Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ratneshwar Prasad
For the Respondent/s : Mr.Government Advocate 3

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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 : 26-04-2024

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

“That this writ petition is preferred on behalf of above named petitioner for issuance of appropriate writ/writs in the nature of Mandamus, Commanding the respondent authority to get release the Tata Pick Up Van bearing registration no. BR26GB-8977 in favour of petitioner which has been seized by the respondents authorities in Connection with Narari Kala Khurd P.S. Case No. 119 of 2023 Offences Under Section 30(a) Bihar Prohibition and Excise Act, District Aurangabad.”

2. The alleged offence is stated to have been



committed on 08.12.2023 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. BR26GB-8977, (Tata Pick Up 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)

alok/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	30.04.2024.
Transmission Date	N/A

