

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8305 of 2024

Mukaddar @ Mukaddar Shah Son of Rafiullah Shah Resident of village-
Ward No. 5, Lokmanya Tilak Nagar panchayat Chandauli, District-
Chandauli, U.P.

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary of Excise Department, Government of Bihar, Patna.
2. The Excise Commissioner, Bihar Patna.
3. The District Magistrate, Kaimur at Bhabhua.
4. The Sub-Divisional Magistrate, Bhabhua, District- Kaimur at Bhabhua.
5. The Suprintendent of Police, Kaimur at Bhabhua.
6. The Superintendent of Excise, Kaimur at Bhabhua.
7. The Investigating officer of police station chainpur, District- Kaimur at Bhabhua.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Rajani Kant Pandey, Advocate
For the State	:	Mr.sita Ram Yadav, GP16
		Mr.Yatindra Narayan, Ac to Gp16

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE JUSTICE SMT. G. ANUPAMA
CHAKRAVARTHY

ORAL JUDGMENT

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

Date : 12-07-2024

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

“(i) To issue an appropriate writ order or directions including a writ in the nature of mandamus commanding the respondents to release the seized vehicle bearing its Registration No. UP67BT0092, (Tata Pick-up) Engine No. 28987433BBFR/VARICOR12DWXJ06264, Chassis No. MAT464798PSD04474 which was seized in arising out of Chainpur P.S. case No. 180 of 2023 u/s 30(a) Bihar Prohibition and Excise (Amendment) Act, 2018 relates to the petitioner which is seized without proper reason.



(ii) To issue an appropriate writ/order/direction directing the respondents not to take any coercive measures against the petitioner.

(iii) and/or other writ order or direction may be issued in which the petitioner is entitled to.”

2. During the pendency of the litigation, the petitioner has failed to question the validity of the Sub-Divisional Magistrate, Bhabhua (Kaimur) order dated 03.04.2024. By means of an interlocutory application, he has assailed the order dated 03.04.2024. Petitioner has a statutory remedy of appeal before the Appellate Authority under Section 92 of the Bihar Prohibition and Excise Rules, 2016 and further, he has remedy of revision also. When a statutory remedy is available to the petitioner, in such circumstances, question of entertaining the present writ petition is incorrect in the light of Hon'ble Supreme Court decision in the case of **State of Jammu and Kashmir Vs. R.K.Zalpuri** and others reported in **AIR 2016 Supreme Court 3006**. In Para 20, it is held as under:-

“20. Having stated thus, it is useful to refer to a passage from City and Industrial Development Corpn. v. Dosu Aardeshir Bhiwandiwalla [City and Industrial Development Corpn. v. Dosu Aardeshir Bhiwandiwalla, (2009) 1 SCC 168] , wherein this Court while dwelling upon jurisdiction under Article 226 of the Constitution, has expressed thus: (SCC p. 175, para 30)



“30. The Court while exercising its jurisdiction under Article 226 is duty-bound to consider whether:

(a) adjudication of writ petition involves any complex and disputed questions of facts and whether they can be satisfactorily resolved;

(b) the petition reveals all material facts;

(c) the petitioner has any alternative or effective remedy for the resolution of the dispute;

(d) person invoking the jurisdiction is guilty of unexplained delay and laches;

(e) ex facie barred by any laws of limitation;

(f) grant of relief is against public policy or barred by any valid law; and host of other factors.”

3. Accordingly, the present CWJC No. 8305 of 2024 is premature. Hence, the present petition stands disposed of. The petitioner is at liberty to invoke remedy before the Appellate Authority in accordance with the statutory provisions. If such appeal is filed, the concerned Appellate Authority is requested to decide the petitioner's appeal at the earliest.

(P. B. Bajanthri, J)

(G. Anupama Chakravarthy, J)

abhishekk/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.07.2024
Transmission Date	NA

