

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7723 of 2023

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Rupesh Kumar, Son of Pradip Bhagat, Resident of Village- Birpur, Police Station- Birpur, District- Supaul.

... .. Petitioner.

Versus

1. The State of Bihar through the Additional Chief Secretary, Excise and Prohibition Department, Govt. of Bihar, Patna.
2. The Collector, Supaul.
3. The Excise Superintendent, Supaul.
4. The District Transport Officer, Supaul.

... .. Respondents.

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Appearance :

For the Petitioner	:	Mr. Umesh Kumar, Advocate. Mr. Abhishek Anand, Advocate. Mr. Subhankar Raj, Advocate. Mr. Tahsin N. Siddiqui, Advocate. Ms. Sneha Ranjan, Advocate.
For the State	:	Mr. Vivek Prasad (GP-7).

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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 : 08-04-2024

On 29.03.2024, the following order was passed:

“Respondents are hereby directed to file an affidavit as to how the respondents can withhold an amount of Rs. 90,000/- and demanding interest with reference to participation of the petitioner in the auction proceedings for 27 vehicles in which petitioner is successful bidder in only one vehicle and he was required to pay 50 per cent of the valued amount of the vehicle. He failed to remit 50 per cent of the vehicle amount in which he succeeded in auction proceedings. Consequently, official respondents have withheld initial deposit made by the petitioner for all twenty seven vehicles instead of one vehicle and remaining initial deposit was required to be refunded to the petitioner. On the other hand, they have withhold initial deposit



amount of twenty seven vehicles made by the petitioner to the extent of Rs. 90,000/-. In other words, they have adjusted for one vehicle about 50 per cent of the vehicle amount or 100 per cent of the value of one vehicle in which petitioner was succeeded. The official respondents have to apprise this Court in the affidavit that they have source of power to withhold initial deposit made by bidder for all the vehicles in the event of succeeding in one vehicle and such adjustment is permissible in the statute or any condition imposed in the executive order be made known along with the affidavit on the next date of hearing, failing which we are compelled to give direction to the concerned authority to withhold initial deposit amount insofar as successful bid of particular vehicle and for remaining 26 vehicles whatever the balance deposited amount shall be ordered to be released in favour of the petitioner.

2. Re-list this matter on 05.04.2024.”

2. Today, learned counsel for the State was not in a position to apprise this Court as to how the State authorities can withhold Rs.90,000/- of the petitioner. On the other hand, it is submitted that in terms of Annexure-‘A’ to the counter affidavit, they are entitled to recover a sum of Rs.15,000/-.

3. At this stage, learned counsel for the petitioner on instructions submitted that apart from Rs.90,000/-, he has paid Rs.15000/-.

4. Taking note of these facts and circumstances, petitioner is entitled to refund of Rs.90,000/- from the



Respondents. The same shall be paid by the concerned authority to the petitioner within a period of one week from the date of receipt of this Judgment.

5. The present writ petition is warranted for imposition of litigation cost and the litigation cost is quantified at Rs.5000/-. The same shall be paid along with the aforementioned Rs.90,000/- in favour of the petitioner. In this regard, necessary Demand Draft/Pay Order shall be issued, for the reasons that concerned Respondent is withholding of Rs.90,000/- of the petitioner without rhyme and reason for more than 2 years from the date of deposit.

6. Accordingly, the present writ petition stands allowed.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.04.2024.
Transmission Date	NA

