

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9159 of 2024

Shiv Kumar Son of Late Ram Lakhan Prasad, Resident of Village- Jagatpur,
P.S.- Telmar, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar Through its Principal Secretary, Excise Department, New Secretariat Building, Patna.
2. The Principal Secretary, Home Department, Government of Bihar, New Secretariat Building, Patna.
3. The District Magistrate, Gaya, District- Gaya.
4. The Superintendent of Police, Gaya.
5. The Excise Superintendent, Gaya.
6. The Officer Incharge of Excise Police Station- Gaay, District- Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Vijay Bardhan Pandey
For the Respondent/s	:	Mr.Binod Kumar Yadav SC-18
		Mr. Aditya Nath Jha A.C to SC-18

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and

HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY

ORAL JUDGMENT

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

Date : 21-06-2024

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

1. The present application is being filed on behalf of above named petitioner for issuance of appropriate writ(s), orders(s), direction(s) to the respondents authorities for release the "MARUTI SWIFT DZIRE CAR" bearing Registration No. BR01CU-7836, Chasis No. MA3FJEB1S00929567 and Engine No. D13A2749460 which has been seized in connection with Excise P.S. Gaya Excise Case No. 1637 of 2023 dated 15.09.2023 instituted under section 30(a) & 56(b) of Bihar Prohibition and Excise (Amendment) Act, 2018.



2. The alleged offence is stated to have been committed on 15.09.2023 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. BR01CU-7836 (Car “MARUTI SWIFT DZIRE CAR”). The petitioner has remedy of submission of application under Rule 12 A of the Bihar Prohibition and Excise Rules, 2021 read with amended sub Rule 2 of Rule 12 A 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 pre-mature 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 12 A 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 12 A 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)

krishnakant/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.06.2024.
Transmission Date	NA

