

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8007 of 2024

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Ranju Devi Wife of Bashishth Ray Resident of Village- Parsaunia, P.O.-
Mirza Nagar, P.S.- Mahua, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Department of Excise,
Patna, Bihar.
2. The District Magistrate, Vaishali.
3. The Superintendent of Police, Vaishali.
4. The Sub Divisional Magistrate, Mahua, Vaishali.
5. The Circle Officer, Mahua, Vaishali.
6. The Officer-in-Charge, Mahua Police Station, Vaishali.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Nidhi Anand, Advocate
For the Respondent/s : Mr.Madhukar Mishra, AC to SC-16

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

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

2 17-05-2024 In the instant writ petition, the petitioner has

prayed for the following relief(s):

"(i) For issuance of writ in the nature
of Certiorari to quash the order passed by Sub
Divisional Office, Mahua (Vaishali) vide
memo no.- 210/Go dated 27/04/2024 in Mahua
P.S. Case No. 244/2024, to confiscate the
whole house of the petitioner, from where the
alleged 09 liters of the illicit liquor has been



seized.

(ii) For the issuance of writ in the nature of Mandamus to command the District Magistrate, Vaishali, to immediately release the whole house of the petitioner as the order of Sub Divisional Office to confiscate the whole house of the petitioner is illegal and direct violation of the Rule 12 (A) (v) of Bihar Prohibition and Excise rule, 2021. As due to that incident the whole family is suffering and become homeless along with lady and child.

(iii) For issuance of writ in the nature of mandamus to command the District Magistrate to initiate the release proceeding faster and fair as the petitioner along with the whole family is suffering as a house is subject of livelihood of the whole family and that is affecting directly the fundamental rights of the petitioner and her family i.e. Article 21 of the Constitution of India (Right to life).

(iv) For any other direction, which your lordship may deem fit and proper in the facts and circumstances of the case."

2. The petitioner has remedy of submission of application under Rule 12B of the Bihar Prohibition and Excise Rules, 2021 read with amended sub Rule 2 of Rule 12B 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 instant writ petition is premature and it stands disposed of as not maintainable.

4. Disposal of the instant writ petition would not be a hurdle for the petitioner to invoke remedy under Rule 12B 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 petitioners' grievance within a period of two weeks from the date of receipt of such application.

5. With the above observations, instant writ petition stands disposed of.

6. If the confiscation proceedings of the residential house of the petitioner has attained finality in that event



petitioner is at liberty to file an appeal under Section 92 of the Bihar Prohibition and Excise Act, 2016 before the appellate authority.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

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