

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9235 of 2024

Pradeep @ Pradeep Chauhan Son of Bahadur @ Bahadur Chauhan, resident of Village-Mujri Tola Bhagwanpur, P.S.- Paniyara, District- Maharajganj (U.P.)

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise Prohibition, Govt. of Bihar, Patna.
2. The Excise Commissioner Bihar, Patna
3. The Collector cum District Magistrate, Gopalganj
4. The Superintendent of Police, Gopalganj
5. The Superintendent of Excise, Gopalganj
6. The District Transport Officer, Gopalganj.
7. The Sub Divisional Magistrate, Gopalganj
8. The Officer-Incharge of Mohammadpur Police Station, District- Gopalganj.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Irshad Ahmad Khan, Advocate
For the Respondent/s	:	Mr. Manoj Kr. Ambastha, SC 26
		Mr. Santosh Kr. Mishra, AC to SC26

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

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

Date : 22-07-2024

Heard learned counsels for the respective parties.

2. In the instant writ petition, petitioner has prayed for the following relief/reliefs:

“For issuance of appropriate writ order or direction for quashing the order dated 11.3.2024 passed by the Excise Commissioner Patna in Excise Appeal No. 19/2024 which



dismissing the appeal of the appellant and confirming the order dated 02.06.2023 passed by the Sub-Divisional Magistrate, Gopalganj in Confiscation Case No. 213/2023 which confiscating the petitioner Motor vehicle, Bolero Pick-up.

ii) For issuance of a writ in the nature of mandamus or any other appropriate writ or direction upon the respondents directing them to release the motor vehicle (Bolero Pick-up) bearing Registration No. UP56AT 3078 which has been seized in connection with Mohammadpur P.S. Case No. 20/2023 under section 30(a), 48 and 41 of Bihar Prohibition and Excise Act, 2018.

iii) For issuance of any other appropriate writ order of direction which your lordships may deem fit and proper in the fact and circumstances of the case.”

3. In support of the aforementioned reliefs, there is no demand before the competent authority, in particularly, 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.

4. In the absence of demand before the competent authority, the instant writ petition filed for direction under Article 226 for a writ of mandamus, is not maintainable or it is premature. Accordingly, the instant writ petition stands disposed of as premature.



5. Disposal of the instant 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 in the prescribed form before the competent authority, the competent authority shall pass speaking order within a period of two weeks from the date of receipt of such application.

6. If the confiscation proceedings of the subject matter of vehicle has attained finality, in that event, petitioner is at liberty to prefer an appeal before the appropriate authority.

7. With the above observation, instant writ petition stands disposed of.

(P. B. Bajanthri, J)

(G. Anupama Chakravarthy, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.07.2024
Transmission Date	NA

