

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8457 of 2024

=====

Ankesh Kumar Shahi S/o Vijay Kumar Shahi, resident of Belthari, P.S.-
Kuchaikote, District-Gopalganj, at present 71/91 Green City Colony, Phase-2,
P.S.-Gorakhnath, Dist.-Gorakhpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise and Prohibition
Department, Bihar, Patna.
2. The Additional Chief Secretary, Excise Department, Govt. Bihar, Patna.
3. The Excise Commissioner, Head Quarter Bihar, Patna.
4. District Magistrate, Gopalganj
5. The Superintendent of Police, Gopalganj
6. The Superintendent of Police Excise, Gopalganj

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : None
For the Respondent/s : Mr.Standing Counsel 24

=====

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

None appears for the petitioner.

2. In the instant writ petition, the petitioner has prayed
for the following relief(s):

*"A. For issuance of an appropriate
writ/writs, order/orders in the nature of
Mandamus directing the respondents to
release and discharge the property from
any charges labelled on the Truck
Registration No. UP-53-DT-3060 which
has been wrongly seized by Police in
connection with Sindhwaliya P.S. Case No.*



45 of 2024 on dated 23.02.2024 registered for the offence under Section 30(a) of Bihar Prohibition and Excise Act, 2018.

B. For issuance of any other relief/reliefs to which the petitioners are found entitled under the facts and circumstances of the present case."

3. 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.

4. Accordingly, the instant writ petition is pre-mature and it stands disposed of as not maintainable.

5. 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.

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

7. If the confiscation proceedings of the residential house of the petitioner has attained finality as on this day 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)

alok/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	28.06.2024.
Transmission Date	N/A

