

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10489 of 2024

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Dharmatari Devi Wife of Upendra Kushwaha, R/o-Vill.- Gareya Khal, Bodh Chhapar, P.S.- Gopalpur, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise, Patna - Bihar.
2. The District Magistrate, Gopalganj.
3. The Superintendent of Excise Department, Gopalganj.
4. The Officer in Charge, Gopalpur, P.S.- Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Shubhesh Pandey, Advocate
For the Respondent/s : Mr.Standing Counsel (18)

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

ORAL ORDER

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

2 12-07-2024 Heard learned counsels for the parties.

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

“(a) For issuance of appropriate writ directing and commanding the respondent authorities to release the motorcycle of petitioner, Bearing Registration No.- BR-28-AD-3997 Chassis No.- MD 625 AF 90P 2K 15228, Engine/Motor No.- AF9KP2215135, of TVS Motor Company Ltd. Model Name TVS RAIDER motorcycle has been seized by the Respondent Police officials of the Gopalpur Police station of district Gopalganj in a case bearing



GOPALPUR P.S. Case Number 23 of 2024 for the alleged offences u/s 30(a) of the Bihar Prohibition and Excise Act, 2022, in favor of the petitioner by handing it over to her or her representative.

(b) For the issuance of any other relief/reliefs to which the petitioner may found entitled to in the facts and circumstances of the present facts and circumstances of the case in favor of the petitioner.”

3. In support of the aforementioned relief, 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 12A 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)

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