

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.9971 of 2024**

Israwati Devi @ Savitri Devi, Wife of Somnath Tiwari, Resident of Village-Takuatar, P.S.- Ramkola, District- Kushinagar (U.P).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, the Excise and Registration Deptt, Govt. of Bihar, Patna.
2. The Excise Commissioner, the Prohibition and Excise Deptt., Govt. of Bihar, Patna.
3. The District Magistrate cum Collector, Gopalganj.
4. The Additional Collector, Gopalganj.
5. The Excise Superintendent, Gopalganj.
6. The Station House Officer, Phulwaria Police Station, District- Gopalganj.

... .. Respondent/s

**Appearance :**

|                      |   |                                                 |
|----------------------|---|-------------------------------------------------|
| For the Petitioner/s | : | Mr. Binod Kumar Sinha, Advocate                 |
| For the Respondent/s | : | Mr. S.D. Yadav, Additional Advocate General (9) |
|                      |   | Mr. Braj Bhushan Mishra, AC to AAG 9            |

**CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI**  
**and**  
**HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY**  
**ORAL JUDGMENT**  
**(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)**

**Date : 26-09-2024**

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

*"(i) For issuance of writ in the nature of certiorari for quashing of order dated 11.03.2024 passed by Excise Commissioner, Bihar, Patna in Excise Appeal Case No. 3/2024 whereby appeal filed by the petitioner has been dismissed.*

*(ii) For quashing of order dated 1.12.2023 passed by Add. Collector, Gopalganj in confiscation (excise) case No. 1197/ 2023 whereby the Vehicle Swift Dzire car bearing Regd No. UP19B2088 of the petitioner has been confiscated due to recovery of total 171 liter*



*country made liquor and also directed to sell the vehicle after auction.*

*(iii) For issuance of writ in the nature of mandamus direction to Respondents to release the aforesaid vehicle Maruti Suzuki Swift Dzire Car bearing Regd. No. UP19B2088 in favour of petitioner which was seized in Fulwaria P.S. Case No. 258/2023 due to recovery of 171 liter country made liquor.*

*(iv) For any other appropriate writ, order, direction save and except in accordance with law."*

2. Petitioner has suffered orders before the confiscating and appellate authority. He has a remedy of filing Revision Petition under Section 93 of Bihar Prohibition and Excise, Act, 2016. However, Excise Commissioner and Secretary of the Excise Department post held by one officer, therefore, filing of Revision Petition may not materialize. Hence, the matter is taken up for final disposal.

3. Learned counsel for the petitioner submitted that confiscation of the vehicle for seizure of 180 litres of liquor would be too harsh at the best they could have imposed certain penalty in terms of money.

4. Having regard to the fact that Rule 12A of the Bihar Prohibition and Excise Rules, 2021 read with amended Sub-Rule 2 of Rule 12A in the year 2022 and 2023 petitioner has alternative remedy insofar as releasing of subject matter of vehicle after



payment of certain penalty in terms of money. On this issue, petitioner has not approached the authority while filing petition under Rule 12A. In the absence of not exhausting remedy it is not proper for us to entertain the present petition. Accordingly, petitioner is permitted to approach the concerned authority in filing application or petition under the prescribed format read with Rule 12A of the Bihar Prohibition and Excise Rules, 2021 read with amended Sub-Rule 2 of Rule 12A in the year 2022 and 2023. If such application is submitted within a period of one month from today, the concerned authority is hereby directed to decide the petitioner's 12A petition within a period of one month from the date of receipt of such application. The concerned authorities are hereby directed not to proceed with auction of the subject matter of vehicle till application under Rule 12 A is decided.

5. With the above observations, the present petition stands disposed of.

**(P. B. Bajanthri, J)**

**(Alok Kumar Pandey, J)**

Vikash/-

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| AFR/NAFR          | NAFR |
| CAV DATE          | N/A  |
| Uploading Date    |      |
| Transmission Date | N/A  |

