

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9910 of 2024

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Somnath Tiwari, Son of Molai Tiwari Resident of Village- Tekuatar, P.S.-
Ramkola, Dist- Kushinagar (U.P)

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Excise and Registration
Dept. 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 Sub Divisional Officer, Gopalganj.
5. The Excise Superintendent, Gopalganj.
6. The Station House Officer, Kuchaikot Police Station, Dist- Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Binod Kumar Sinha, Advocate
For the Respondent/s : Mr.Government Pleader (26)

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

Date : 01-07-2024

In the instant petition, petitioner has prayed for the
following reliefs:-

*“(i) For issuance of writ in the nature of
certiorari for quashing of order dated 13.02.2024
passed by sub Divisional Officer, Gopalganj in
confiscation (Excise) Case No. 1302/2023 whereby
petitioner Motorcycle TVS Apache Regd. No.
UP57BM0263 has been confiscated and further*



directed to sell the petitioner vehicle after conducting auction.

(ii) For issuance of writ in the nature of Mandamus direction to the respondents to release the Motorcycle TVS Apache Regd. No. UP57BM0263 in favour of petitioner which was seized in Kuchaikot P.S. Case No. 587/2023 due to recovery of 18 Liter country made liquor.

(iii) For any other appropriate writ, order, direction save and except in accordance with law.”

2. In support of aforementioned relief there is no demand before the competent authority in particularly under Rule of 12A of the Bihar Prohibition and Excise Rules, 2021 read with amended Sub-Rule 2 of Rule 12A in the year 2022 and 2023.

3. In the absence of demand before the competent authority, the present writ petition for writ of mandamus is not maintainable or it is pre-mature. Accordingly, the present petition stands disposed of as pre-mature.

4. Disposal of the present 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.

5. If the confiscation of the vehicle has attained finality, in that event, petitioner is at liberty to prefer an appeal before the appropriate authority under Section 92 of the Bihar Prohibition and Excise Act, 2016.

6. With the above observation, the present petition stands disposed of.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.07.2024
Transmission Date	NA

