

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10615 of 2024

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Mamta Devi Wife of Santosh Sah Resident of Village- near Kali Mandir
Noorpur, Police Station- Nathnagar (Madhusudanpur), District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Excise Commissioner, Bihar, Patna.
3. The District Magistrate, Bhagalpur.
4. The Superintendent of Police, Bhagalpur.
5. The Superintendent of Excise, Bhagalpur.
6. The S.H.O. Nathnagar (Madhusudanpur) Police Station, District- Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Binay Kumar, Advocate
For the Respondent/s : Mr. Addl. Advocate General 13

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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:

“That, this application is being filed for issuance of a writ in the nature of mandamus or any other appropriate writ or writs directing the respondents to release the residential house of the petitioner, which has been illegally sealed on 02.10.2022 in connection with Nathnagar (Madhusudanpur) Police Station Case No. 767 of



2022 registered for the offence under Sections 30 (a), 30(d), 41(i) of the Bihar Prohibition and Excise Act, 2016 for the alleged recovery of (I) 168 packets Nausadar in sealed condition, (ii) 30 K.G. Mahua (iii) 30 K.G. dry yeast, (iv) two cartoon dry yeast, which is 500 gram each, (v) 7.5 K.G. opened yeast, (vi) 10 K.G. dry yeast and (vii) only 01 litres illicit country made wine for which confiscation proceeding has been initiated bearing Miscellaneous (Excise) Case No. 144 of 2022-2023, pending before the Court of the learned Deputy Collector, Land Reforms, Sadar Bhagalpur.

AND/OR

For passing such other order or orders for which the petitioner will be found entitled in the eye of law.”

3. The petitioner has a remedy of submission of application under Rule 12-B of the Bihar Prohibition and Excise Rules, 2021 read with amended sub-Rule 2 of Rule 12-B 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.

4. 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. Accordingly, the instant writ petition is premature 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 12-B 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 for, 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 residential house of the petitioner has attained finality, 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)

(G. Anupama Chakravarthy, J)

GAURAV S./-

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

