

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11347 of 2024

Ashwani Kumar Son of Bijay Kumar Jha Resident of- Rani Talab, Fathehpur,
P.S.- Sabour, District- Bhagalpur

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Prohibition and Excise Department, Government of Bihar, Patna
2. Excise Commissioner, Prohibition and Excise Department, New Secretariate, Patna, Bihar
3. The Distract Magistrate-cum- Collector, Banka
4. The District Transport Officer, Banka
5. The Assistant Commissioner, Excise Banka
6. The Sub-Divisional Officer, Banka
7. The SHO, Panjwara Police Station, Banka

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sachina, Advocate
For the Respondent/s	:	Mr. Ajay Bihari Sinha, G.A. 8
		Mr. Suryakant Kumar, AC to GA-8

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

Date : 13-09-2024

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

“(i) For issuance of an appropriate writ in the nature of Mandamus seeking direction to respondents to release of Hero Achiever Motorcycle bearing Registration No. BR-10U-5692, Chasis No. MBLKC10ET-FGF00023 with Engine No. KC10EFF00060 which was seized by the police in Panjwara P.S. Case No. 122 of 2023 pending in the court of Additional District and Sessions Judge-V, Cum Special Judge, Excise Act, Banka.



(ii) For issuance of appropriate writ to set aside order dated 22.04.2024 passed by the Excise Commissioner, Prohibition and Excise Department (Respondent No. 2) in Excise Appeal Case No. 23/2024 and order dated 18.12.22023 passed by Sub-Divisional, Office, Banka (Respondent No. 6) in Confiscation (Prohibition) Case No. 89 of 2023-24.

(iii) For issuance of an appropriate writ of Mandamus or any other appropriate writ(s) or order(s) or directions(s) directing the Respondents to pay litigation cost of Rs. 50,000/- (Rupees Fifty Thousand Only) to the Petitioner.

(iv) For issuance of Any other relief/s to which the petitioner is entitled in the facts and circumstances of the case.”

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 pre-



scribed 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.

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

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

Vikash/-

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

