

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11391 of 2024

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Rajo Paswan Son of Kailash Paswan Resident of Village-Dharhara, P.S.-
Asthawan, District-Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. The Principal Secretary, Excise Department, Govt. of Bihar, Patna.
3. The District Magistrate, Nalanda.
4. The Superintendent of Police Nalanda.
5. The Excise Superintendent Nalanda.
6. The Officer in Charge of Police Asthawan, District-Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Pankaj Kumar, Advocate
For the Respondent/s : Mr.Standing Counsel (1)

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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 : 02-08-2024

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

*"(I) For the issuance of an
appropriate writ in the nature of
MANDAMUS commanding and directing
the respondent's authorities to desalead the
premises of the petitioner which has been
sealed in Asthawan P.S. Case No. 222 of
2023 attributing offences under Section
30(a) of Bihar Prohibition and Excise
(Amendment) Act 2018 in which till date no
confiscation proceeding has been initiated.*

*(ii) For issuance of any other
writ / writs, order / orders, direction /*



directions, for which the petitioner shall be found entitled under the facts and circumstances of the case as stated herein below for the ends of equitable justice."

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

3. Accordingly, the instant writ petition is pre-mature and it stands disposed of as not maintainable.

4. Disposal of the instant writ petition would not be a hurdle for the petitioner to invoke remedy under Rule 12B 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 form, the concerned authority is hereby directed to consider the



petitioners’ grievance within a period of two weeks from the date of receipt of such application.

5. With the above observations, instant writ petition stands disposed of.

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)

(Alok Kumar Pandey, J)

alok/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	08.08.2024.
Transmission Date	N/A

