

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11034 of 2024

Vikash Kumar Yadav S/o Brijkishor Yadav, resident of Village-Thepahan
Uttar Tola, P.S.-Jiradei, District-Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise and Prohibition, Govt. of Bihar, Patna.
2. The Excise Commissioner, Government of Bihar, New Secretariat, Patna.
3. The District Magistrate cum Collector, Gopalganj.
4. The Superintendent of Police, Gopalganj.
5. The S.H.O. Mirganj Police Station Gopalganj.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Dhananjay Kumar Shahi
For the Respondent/s : Mr.Standing Counsel (24)

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

2 25-07-2024 In the instant petition, petitioner has prayed for the
following relief(s):-

“That this is an application for issuance of writ of mandamus or other appropriate writ(s), order(s) and direction(s), commanding the respondent No. 3 to release the vehicle (Mahindra Scorpio S-10) bearing Registration No.- BR-29-PA-3392, Chassis No.- MAITA2WGXH2F19837, seized in connection with Mirganj P.S. Case No.- 234 of 2024, dated 12.06.2024 registered U/S- 414 of I.P.C. and 30(a) of Bihar Prohibition and Excise Act 2022(Amended), allegedly 322 liters of country made liquor was recovered from the vehicle for which no



proceeding of confiscation yet to be initiated, ignoring the vehicle is lying stagnant about one month in open sky at the Mirganj Police Station.”

2. The alleged offence is stated to have been committed on 12.06.2024. and as on today, the confiscation proceedings have not attained finality. That apart, the petitioner has not approached the concerned authority in seeking release of the subject matter of the motor vehicle bearing Registration No. BR-29-PA-3392 (Mahindra Scorpio S-10). The petitioner has remedy of submission of application under Rule 12A of the Bihar Prohibition and Excise Rules, 2021 read with amended sub Rule 2 of the Rule 12A 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 present writ petition is pre-mature and it stands disposed of as not maintainable.

4. Disposal of the present writ 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 before the competent authority in the prescribed form, the concerned authority is hereby directed to consider the petitioner's grievance within a period of two weeks from the date of receipt of such application under Rule 12A of Bihar Prohibition and Excise Rules, 2021 including amended provisions in the year 2022 and 2023.

5. With the above observation, the present writ petition stands disposed of.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

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