

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14924 of 2024

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Mahesh Kumar Gupta S/o-Laxmi Gupta Resident of E-698, Shakarpur East,
P.S.- shakarpur, District- West Delhi-110034.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise and Prohibition Department, Bihar, Patna
2. The Additional Chief Secretary, Excise Department, Govt. of Bihar, Patna.
3. The Excise Commissioner, Head Quarter Bihar, Patna.
4. District Magistrate, Gopalganj.
5. The superintendent of Police, Gopalganj.
6. The Superintendent of Police Excise, Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pritish Ranjan
For the Respondent/s : Mr. Standing Counsel (18)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE SHASHI BHUSHAN
PRASAD SINGH

ORAL ORDER

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

2 04-10-2024 Heard learned counsels for the parties.

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

“A. For issuance of an appropriate writ/writs, order/orders in the nature of Mandamus directing the respondents to release and discharge the Vehicle from any charges labelled on the Bus Registration no.- UP-51-AT-6590 which has been wrongly seized by Police in connection with Gopalganj Excise



P.S. Case No.- 52/2024 instituted on dated 14-01-2024 for the offences alleged under section-30(a) of the Bihar Prohibition and Excise Amendment Act 2022.

B. For issuance of an appropriate writ/writs, order/orders in the nature of Mandamus directing the respondents for disposal his representation/application of release of vehicle which is pending before the respondent no.- 4.

C. For issuance of any other relief/reliefs to which the petitioners are found entitled under the facts and circumstances of the present case."

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

4. In the absence of demand before the competent authority, the instant writ petition filed for direction under Article 226 for a writ of mandamus is not maintainable or it is premature. Accordingly, the instant writ petition stands disposed of as premature.

5. Disposal of the instant 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 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.

6. If the confiscation proceedings of the subject matter of vehicle has attained finality, in that event, petitioner is at liberty to prefer an appeal under Section 92 of the Bihar Prohibition and Excise Act, 2016 before the appropriate authority. If such appeal is filed, it is to be considered at the earliest.

(P. B. Bajanthri, J)

(Shashi Bhushan Prasad Singh, J)

Raj Ranjan/-

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