

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21107 of 2021

Indira Gandhi Mahila Maha Vidyalaya Village- Swetapur, Mairwa, P.S.-
Mairwa, District- Siwan, through Secretary Shashi Bhushan Tiwari, aged
about 72 year (male), Son of Late Laxmi Mani Tiwari, resident of
Niralanagar, Panchmandira, P.S.- Siwan, District- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Excise and Prohibition
Department, Government of Bihar, Patna.
2. The District Magistrate Siwan.
3. The Excise Superintendent Siwan.
4. The Block Development Officer Mairwa, Siwan.
5. The Circle Officer Mairwa, Siwan.
6. The Officer in Charge, Mairwa Siwan.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sumit Kr. Jha, Advocate Mr. Avinash Shekhar, Advocate
For the Respondent/s	:	Mr. Vivek Prasad, GP 7

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

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

Date : 18-09-2024

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

*“(i) For a direction upon the respondents to
restore the land/premises of the petitioner upon which the
Respondents have destroyed seized alcohol, to its original
condition.*

*(ii) For a direction upon the respondents to bring
on record the video recording of the destruction of seized*



alcohol conducted by the Respondents upon the land/premises of the petitioner.

(iii) To institute a high level enquiry in order to determine how Respondents have conducted destruction of seized alcohol upon the private land/premises of the petitioner and to determine liability and punish the officials responsible for the illegal act.

(iv) To award suitable compensation to the petitioner for the damage caused to its land/premises on account of the illegal destruction of seized alcohol by the Respondents.

(v) To adjudicate and hold that the action of the Respondents in destroying seized alcohol upon the land / premises of the petitioner is mala fide and arbitrary in nature and tantamounts to abuse of powers vested in them.

(vi) To grant any other relief/reliefs which the petitioner may be entitled to in the facts and circumstances of the case.”

2. Matter was heard from time to time.

3. On 13.08.2024 and 27.08.2024, we have passed the

following orders:

“Dated: 13.08.2024

The District Magistrate, Siwan is hereby directed to file his personal affidavit to the extent of whether was there any illegal encroachment on a private land in the guise of destroying the seized liquor/spirits or not, if it is true, in that event who are responsible for such illegalities undertaken by the officials of the State Government. Those names shall be provided on the next date of hearing. He is also requested to appear through V.C. on the next date of hearing.

2. List this matter on 27.08.2024.



Dated: 27.08.2024

The District Magistrate, Siwan, has appeared through Video Conference pursuant to our order dated 13.08.2024. In compliance of the order dated 13.08.2024, specific counter affidavit has been filed on behalf of the District Magistrate, Siwan (respondent no. 2) dated 24.08.2024.

2. The District Magistrate being the head of the concerned district has not read our previous order and proceeded to file specific counter affidavit along with documents. Our order is crystal clear in asking him to file his personal affidavit and so also to furnish such of those official's names who are all involved in the alleged illegal encroachment on private land of petitioner in the guise of destroying seized liquor/spirits. These two directions have not been complied. Accordingly, specific counter affidavit filed on behalf of District Magistrate, Siwan (respondent no. 2) stands rejected with cost of Rs. 5,000/- Cost shall be paid by the Mukul Kumar Gupta, District Magistrate, Siwan from his pocket and not from the department/State Government. Further, he is hereby directed to comply the order dated 13.08.2024 in the manner indicated in our order before the next date of hearing. He shall remain present though V.C. on the next date of hearing.

3. List this mater in the next week i.e. on 03.09.2024."

4. State respondents have not apprised with revenue records that the subject land is of the State except one gift deed document stated to have been donated in the favour of the State in the year 1956 by Jagat Narnin Pandey and Yamuna Pandey. At the same time, the very same land was gifted in favour of the



petitioner in the year 1988. Thereafter, each and every revenue records stand in the name of the petitioner. It is learnt that mutation entries and other issues are subject matter of litigation before various authorities / forum.

5. Be that as it may, as on the date of destroying seized liquor in the subject land, the subject land stands in the name of the petitioner in the light of various revenue records, therefore, the respondents State have exceeded their jurisdiction in destroying seized liquor in the petitioner’s land, therefore, they are liable to pay damages of Rs. 1 lakh to the petitioner. Damages shall be paid to the petitioner within a period of eight weeks from the date of receipt of copy of this order.

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

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.09.2024
Transmission Date	NA

