

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14954 of 2024

Shivchandra Kumar S/o Ram Ekbal Ray Resident of Village- Dedaur, Police Station- Bakhtiyarpur, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Excise and Prohibition Department Bihar, Patna.
2. The Excise Commissioner, Bihar Prohibition and Excise Act 2016, Lakhisarai, Bihar.
3. The Excise Officer, Bihar Prohibition and Excise Act 2016 Lakhisarai, Bihar.
4. The District Collector, District Lakhisarai, Bihar.
5. The Superintendent of Police, District Lakhisarai, Bihar.
6. The Officer in Charge of Kiul Police Station, District- Lakhisarai.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Jay Ram Prasad

For the Respondent/s : Mr. Additional Advocate General (3)

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):-

"i. For issuance of an appropriate writ/writs direction/directions, order/orders directing the respondents to release the Two wheeler Hero Honda Splendor Plus Red Colour Motorcycle, Bearing registration No. BR21AA-4790, Chassis No. MBLHA W127 M H B 76489, Engine Number – HA11EDMHB81817 which is



seized in connection with Kiul P. S. Case No-43/2024, Dated 15/05/2024, Registered offence Under Sections 30 (a) of Bihar Prohibition & Excise Amendment Act 2018.

ii. For grant of any other relief or reliefs for which petitioner is entitled in view of 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/Gaurav-

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