

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 14606 of 2024

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Saddam Hussain Son of Najim Hussain, R/o- Near Masjid, Kadipur Tole
Nabiganj, P.S.- Khaira, District- Saran at Chapra.

... .. Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary, Department of
Excise and Prohibition, Govt. of Bihar, Patna.
2. The District Magistrate, Gopalganj.
3. The Additional Collector, Gopalganj.
4. The Excise Superintendent, Gopalganj.
5. The Superintendent of Police, Gopalganj.
6. The Officer-in-Charge, Bhore Police Station, Gopalganj.
7. Dr. Nawal Kishore Choudhary, the then District Magistrate, Gopalganj.
8. Rakesh Kumar Singh, then Excise Superintendent, Gopalganj.
9. Manoj Kumar Rajak, then District Transport Officer, Gopalganj.
10. Ajay Kumar, Son of Ravindra Rai, R/o- Bijauli, P.O.- Belar, P.S.- Panapur,
District- Saran at Chapra.
11. Surendra Kumar Yadav, Then SHO of Bhore, P.S. - Gopalganj, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Kumar Harshvardhan, Advocate Ms. Kalpana, Advocate Mr. Sudhanshu Prakash, Advocate
For the Respondent/s	:	Mr. Ajit Kumar, GA-9 Mr. Sheo Shankar Prasad, SC-8 Mr. Sanjay Kumar, AC to SC-8

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE S. B. PD. SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 05-12-2024

In the instant petition the petitioner has prayed for the
following reliefs:-

*“To issue an appropriate writ, order
or direction in the nature of Mandamus for*



quashing the entire proceeding of confiscation Case No. 912 of 2022 whereby the learned Additional Collector, Gopalganj has been pleased to confiscate the Scorpio Car of the petitioner bearing Registration No. Br-02-PA-7837 (Changed No. BR-01-PN-3286), Chasis No. MA1TA2WRJ2F14519, Engine No. WRJ4F21685, which was seized by the State officials under Bhore P.S. Case No. 301 of 2022 registered under Section 30(a) of Bihar Prohibition and Excise Act, 2016.

(ii). For direction to the respondents to bring back the petitioner's Car which has been fraudulently sold to the maternal nephew of the then SHO of Bhore Police Station to hand it over to the petitioner forthwith.

(iii) For direction to the State of Bihar for paying compensation to the petitioner for fraudulently selling the petitioner's car without even verifying its registration number and vehicle and vehicle theft status.

(iv) To grant any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the case."

2. On 21.112024 we have passed the following order:-



“Mr. Shiv Shankar Prasad, appearing for the respondent is not co-operating in the present case, when we specifically asked him question as to whether personal notice has been issued to the petitioner before auctioning of vehicle or not? On three occasions, he is circumventing the court’s question and it is deprecated.

2. Therefore the learned Advocate General is hereby requested to appoint some other counsel in the present case.

3. District Magistrate, Gopalganj is hereby directed to depute an official with the complete records so as to examine whether the petitioner has been issued notice insofar as auction proceedings is concerned and other materials.

4. Whether the auction notice notified in the newspaper was circulated in the district Saran at Chapra by the District Magistrate, Gopalganj so as to have the benefit of notice to the petitioner through newspaper or not? The auction proceedings drawn by the concerned officer shall be made available so as to examine whether auction proceedings was open proceedings or secret proceedings. The proceedings have been signed by such of those persons who have participated in the auction proceedings or not. We require all these documents on the next date of hearing.

5. For time being, personal appearance of Surendra Kumar Yadav be then SHO, Bhore police



station, Gopalganj stands dispensed until further order.

6. Re-list this matter on 05.12.2024.”

3. Today, learned counsel for the State on instruction submitted that no notice was given to the petitioner due to certain disputed material information insofar as description of the vehicle.

4. The petitioner's vehicle bearing Registration No. Br-02-PA-7837 (Changed No. BR-01-PN-3286) was stolen for which he had registered a complaint for the offences under Section 379 on 10.06.2022. The stolen vehicle of the petitioner was misused by some miscreants and his vehicle was involved for the alleged offences under the Bihar Prohibition of Excise Act. To that affect, an F.I.R. was registered on 28.06.2022 in Bhore P.S. Case No. 301 of 2022. Resultantly, the confiscation proceedings read with the auction proceedings have been completed. In the auction proceedings official respondents have realised auction amount of Rs. 3,19,000/- (Rupees Three Lakh Nineteen Thousand).

5. In this backdrop, learned counsel for the petitioner submitted that despite the fact that petitioner had registered theft of his vehicle on 10.06.2022 and before taking up confiscation proceedings and auction proceedings, the official respondents have not taken all necessary precautionary measures like issuance of



notice and other formalities. In fact, theft of the vehicle is seized in an Excise offence in that event the official respondent should have been more careful in disposing of the vehicle through auction for the reasons that third party/owner of the vehicle may claim. In this regard, the officials have also not ascertained the description of the vehicle through DTO and thereafter they should have proceeded for confiscation and other proceedings including auction proceedings. He has also pointed out the vehicle was insured for the period from 06.06.2022 to 25.10.2022 so the date on seizure of the vehicle on 28.06.2022 insurance policy was very much existing and it was in vogue. Perusal of insurance policy under the column of insured declared value (IDV) it has been indicated Rs. 11,00,000/- (Rupees eleven lakh).

6. The respondents have not taken note of any yardstick as to how they determine the valuation of the vehicle before auctioning of the subject matter vehicle, in other words they have randomly taken up with the naked eye that its valuation is Rs. 3,10,000/- (Rupees three lakh ten thousand).

7. Heard learned counsel for the respective parties, in the light of these facts and circumstances, the petitioner has made out a *prima facie* case so as to grant relief of insured value amount for the reasons that third party right has been created by virtue of



auction proceedings. Respondents have committed serious blunder in each and every steps insofar as confiscation till auction of the subject matter vehicle. It was bounden duty of the officials if the vehicle is seized for the offences under the Bihar Prohibition and Excise Act in the absence of identification of real owner. In that event, they should have ascertain who is the owner of the vehicle from the concerned DTO. Further, before auctioning the subject matter vehicle they have not ascertain value of the insured vehicle assuming that if they do not have a particular document insofar as the insurance copy, in that event they should have taken opinion of any of the national insurance company and they have reputed and authorised valuer and not from the DTO. DTO is not in a position to evaluate the value of the vehicle in the absence of insured copy.

8. Taking note of these facts and circumstances the respondents are hereby directed to pay a sum of Rs. 11,00,000/- (Rupees eleven lakh) to the petitioner with reference to insurance policy which was in vogue during the period from 06.06.2022 to 25.10.2022 read with the fact he has registered theft complaint on 10.06.2022 and registration of P.S. Case for the offence under Bihar Prohibition and Excise Act on 28.06.2022. The aforementioned amount shall be released in favour of the



petitioner within a period of eight weeks from the date of receipt of the copy of this order.

9. Disciplinary Authority to such of those persons who have committed blunder in disposing the subject matter of vehicle shall be subjected to disciplinary proceedings. After due adherence to the relevant disciplinary and regulation rules and in adhering to the principle of natural justice in terms of the relevant regulation and proceed to initiate and complete the enquiry proceeding within a period of six months from the date of receipt of the copy of this order. The charge must be insofar as alleged misconduct read with the loss of Rs. 7,81,000/- (Rupees seven lakh eighty one thousand) to the State exchequered shall be charged and the same shall be recovered from such of those erring officials/employees.

10. With the above directions, the present CWJC No. 14606 of 2024 stands allowed.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

Ankit Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.12.2024
Transmission Date	NA

