

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14347 of 2024

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Ankit Kumar Son of Arun Sharma Resident of Village- Dadpur P.S.-
Hulasganj, District- Jehanabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Registration, Excise and Prohibition, Government of Bihar, Patna.
2. The Secretary Cum Excise Commissioner, Bihar, Patna.
3. Excise Commissioner, Sheikhpura.
4. The Collector Cum-District Magistrate, Sheikhpura
5. Superintendent of Police, Sheikhpura.
6. Officer In Charge Sheikhpura, Police Station, Sheikhpura.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Prawesh Kumar, Adv.
For the Respondent/s : Mr. Ramadhar Singh, GP-25

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 26-09-2024

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

" (i) To issue appropriate writ(s), order(s), direction(s) in the nature of certiorari quashing the order contained memo no.817 dated 3.9.24 issued by the Collector-Cum-District Magistrate, Sheikhpura (respondent no.4) whereby and whereunder the petitioner has been issued notice and directed to deposited the fine amount rupees 360500.00/- (three lakhs sixty thousand and five hundred) by way of penalty of vehicle KIA SONET D1 56MT HTX bearing registration no. BR-01FJ 8195 in Sheikhpura p.s. case no. 360/2023 which is contrary to the



amendment made vide Gazette notification dated 31.5.23 (Annexure 4) by which sub rule (2) of 12A (Release of vehicle, conveyance etc on payment of penalty of Bihar Prohibition and excise Rule 2021 has been amended by which penalty of the seized vehicle has been laid down 10% of the insured value of the vehicle.

(ii) To issue an appropriate writ in the nature of Mandamus directing the respondent authorities that vehicle bearing registration no. BR-01FJ 8195 seized in Sheikhpura p.s. case no. 360/2023 be restrained from auction and the order dated 3.9.24 may not be enforced until the pendency of the present writ application.

(iii) To direct the respondents to grant compensation to the petitioner of the vehicle which has been badly damaged and broken the glass and other part of the vehicle in the police station premises.

(iv) To direct the respondents authority to accept the fine amount of 10% of the insured vehicle as per the amended rule.

(v) Any other relief or reliefs which the petitioners may be found entitled to in the facts and circumstances of the case.

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

3. In the absence of demand before the competent authority, the present writ petition for writ of mandamus is not



maintainable or it is pre-mature. Accordingly, the present petition stands disposed of as pre-mature.

4. Disposal of the present 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. The concerned authority is hereby directed to not to proceed with the auction proceeding till application under Rule 12A is considered by the concerned authority. Petitioner is prepared to pay a fine of Rs. 10% of the insured value of the vehicle. This may be also taken out of by deciding rule 12A application.

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

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

Amandeep/Alok

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.10.2024.
Transmission Date	NA

