

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15535 of 2024

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Ashok Kumar @ Ashok Mahto, son of Late Sukhu Mahto, Resident of Village-Begampur, P.S-Bypass, District-Patna.

... .. Petitioner.

Versus

1. The State of Bihar through the Principal Secretary, Department of Prohibition, Registration and Excise, Government of Bihar, Patna.
2. The Principal Secretary, Department of Prohibition, Registration and Excise, Government of Bihar, Patna.
3. The District Magistrate, Patna.
4. The Superintendent of Police, Excise Patna.
5. The S.H.O. Excise, P.S. Patna.

... .. Respondents.

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Appearance :

For the Petitioner : Mr. Jogendra Kumar, Advocate.
For the State : Mr. Gyan Prakash Ojha, GA-7.

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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 : 07-10-2024

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

“For issuance of an appropriate writ preferably in the nature of mandamus, Commanding upon the respondent authorities to unseal two rooms of the residential house of the petitioner situated in Mohalla-Begampur, Patna standing on the land appertaining to Tauji No.83, Khata No.121, Plot No.277 (Part), Jamabandi No.334, Municipal



Ward No.29/36, Sheet No.248, Plot No.1707 (Part) which has been sealed in connection with Excise P.S. Case No.645 of 2024 dated 22/03/2024 registered for the offence alleged under Section 30(a) and 56(b) of the Bihar Prohibition and Excise Act.”

2. The petitioner has remedy of submission of application under Rule 12B of the Bihar Prohibition and Excise Rules, 2021 read with amended sub Rule 2 of Rule 12B in the year 2022. Before invoking the aforementioned provisions and approaching the concerned authority, the petitioner has rushed to this Court. Be that as it may, even there is no representation. For seeking writ of mandamus, there must be a demand before the competent authority. At the same time, duty is cast on the concerned public authority. The first ingredient of demand before the competent authority is not forthcoming.

3. Accordingly, the instant writ petition is premature and it stands disposed of as not maintainable.

4. Disposal of the instant writ petition would not be a hurdle for the petitioner to invoke remedy under Rule 12B of Bihar Prohibition and Excise Rules, 2021 including amended provisions in the year 2022. If such application is submitted



before the competent authority, in the prescribed form, the concerned authority is hereby directed to consider the petitioners’ grievance within a period of two weeks from the date of receipt of such application.

5. With the above observations, instant writ petition stands disposed of.

6. If the confiscation proceedings of the residential house of the petitioner has attained finality in that event petitioner is at liberty to file an appeal under Section 92 of the Bihar Prohibition and Excise Act, 2016 before the appellate authority.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.10.2024.
Transmission Date	NA

