

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16049 of 2023

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Prince Kumar S/o Late Subhash Prasad, Resident of Village- Meyar. P.S.-
Noor Sarai, District- Nalanda, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar Through the secretary, Prohibition Excise and Registration Department, Government of Bihar.
2. The Excise Commissioner, Prohibition Excise and Registration Department, Government of Bihar.
3. The District Magistrate, Nawada
4. The Superintendent of Police, Nawada
5. The Senior Deputy Collector, Nawada
6. The SHO, Sirdalla Police Station, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shiv Pratap, Advocate
For the Respondent/s : Mr. Vikash Kumar, (Sc-11)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 09-02-2024

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

"(i) For issuance of an appropriate writ or order or direction in the nature of *CERTIORARI* quashing the order dated 13.03.2023 passed by the Excise Commissioner Patna, whereby the appeal no. 14/2023 preferred by the petitioner against an order dated 23.06.2022 passed by the Senior Deputy



Collector Nawada was rejected. By the said order dated 13.03.2023, the Commissioner of Excise, Patna had rejected the petitioner's appeal against an order dated 23.06.2022 passed by the Senior Deputy Collector Nawada, whereby the petitioner's motorcycle bearing Registration No.- BR- 21J-0427 was confiscated under Bihar Excise (Amendment) Act, 2016 on account of being used in commission of an offence punishable under Section 30(a)(d)/41 of Bihar Prohibition & Excise Act, 2016.

(ii) For issuance of an appropriate writ of order or direction in the nature of directing the in the nature of MANDAMUS, directing the Respondent authorities to pay compensation in lieu of auction of the vehicle bearing Registration No.- BR-21J- 0427 which has been auction sold as per oral information provided by the office of Respondent No. 4.

(iii) For issuance of an appropriate writ or order or direction in the nature of MANDAMUS, directing the Respondent authorities to provide auction details with respect to the vehicle bearing Registration No.- BR-21J- 0427.

(iv) For grant of any other relief or reliefs to which the petitioner is found entitled to in the facts and circumstances of the case."

2. On 09.11.2023 the following order was passed:-

Learned counsel for the petitioner submitted that appellate authority rejected the petitioner's appeal on the ground of delay.

2. Perusal of Section 92 of Bihar Prohibition and Excise Act, 2016 read with Rule 20 of Bihar Prohibition and Excise Rules, 2021, the statute does not provide any powers to condone the delay in filing appeal. In the absence of statutory provision for condonation of delay by a quasi-judicial authority whether this Court can interfere with the appellate authority's order or not? On this issue, learned



counsel for the petitioner is hereby directed to apprise this Court on the next date of hearing with certain judicial pronouncements. In identical issue Gujarat High Court in the case of State of Gujarat Vs. Hansrajibhai Chanabhai Savasadiya (Special Civil Application No. 1303 of 2021) decided on 27.01.2021 it is held that in the absence of provision delay cannot be condoned when statute prescribed time limit for filing petition.

3. Re-list this matter on 07.12.2023.

3. Today we have noticed latest Hon'ble Supreme Court decision in the case of **North Eastern Chemicals Industries (P) Ltd. and Anr. vs. Ashok Paper Mill (Assam) Limited and Anr.** reported in **2023 SCC Online SC 1649** in respect of entertaining appeal in the absence of stipulated time limit. The Hon'ble Supreme Court elaborately considered if the appeal is filed within a reasonable period of time in such an event appellate authority was required to entertain. Having regard to the dates and events in the present appeal, the appellant has made out a case. Accordingly, the impugned order dated 13.03.2023 passed in Appeal Case No. 14/2023 (Annexure- P/5) stands set aside and matter is remanded to the appellate authority to pass order on merit after providing opportunity of hearing to the petitioner. The above exercise shall be complete within a period of three months from the date of receipt of this order.



4. With the aforesaid observations, the present petitions stands allowed.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

 jyoti/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

