

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18201 of 2023

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Manisha Kumari D/o Baliram Sah Resident of Village-Nawada Parsauni P.S.-
Uchkagaon, District-Gopalganj.

... .. Petitioner.

Versus

1. The State of Bihar through the Principal Secretary, Bihar Prohibition and Excise Department, Bihar, Patna.
2. The District Magistrate, Gopalganj.
3. The Superintendent of Excise, Gopalganj.
4. The Superintendent of Police, Gopalganj.
5. The Officer in Charge, Excise Police Station, Gopalganj.

... .. Respondents.

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Appearance :

For the Petitioner : Mr. Sudhir Kumar Sinha, Advocate.
For the State : Mr. Kumar Pankaj, AC to SC- 5.

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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 : 08-01-2024

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

“(i) To issue an appropriate order/s, direction/s
including a writ preferably in nature of
Mandamus commanding the respondents
to release the vehicle/TVS Apache
Motorcycle bearing Registration
No.BR28-W-5574, Chassis
No.MDG34CE48K2N06755, Engine
No.CE4NK2306762 in favour of the
petitioner who is owner of the said



motorcycle seized in Excise P.S. Case No.763 of 2023 registered under section 30(a) of Bihar Prohibition and Excise Amendment Act, 2018 lying in the premises of Police station and subject to natural decay by furnishing sufficient penalty to the satisfaction of learned District Magistrate, Gopalganj.

(ii) Any other relief/s to which the petitioner is entitled in the facts and circumstances of the case.”

2. The alleged offence is stated to have been committed on 28.07.2023 and as on today, the confiscation proceedings have not attained finality. That apart, the petitioner has not approached the concerned authority in seeking release of the subject matter of the motor vehicle bearing Registration No.BR28-W-5574, (TVS Apache motorcycle). The petitioner has remedy of submission of application under Rule 12A of the Bihar Prohibition and Excise Rules, 2021 read with amended sub Rule 2 of Rule 12A in the year 2022 and 2023. 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 present writ petition is premature and it stands disposed of as not maintainable.

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

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

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.01.2024.
Transmission Date	NA

