

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18876 of 2024

Sarita Devi Chawla, wife of Ramesh Kumar Chawala, resident of Mohalla -
Gudri Bazar, P.S. - Laheriasarai, District- Darbhanga.

... .. Petitioner

Versus

1. The State of Bihar through Excise Commissioner-cum- Inspector General of Registration, Department of Excise and Prohibition, Govt. of Bihar, Patna.
2. District Magistrate, Darbhanga.
3. Superintendent of Police, Darbhanga.
4. Additional District Magistrate, Darbhanga.
5. Superintendent of Excise, Darbhanga.
6. Station House Officer, Bahadurpur Police Station, District- Darbhanga.
7. Investigating Officer, Bahadurpur P.S. Case No.- 466 / 2023, District- Darbhanga.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Anil Kumar Mukund, Advocate

For the Respondent/s : Mr. Sushil Kumar, GP-22

Mr. K.K. Singh, AC to GP-22

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 : 11-12-2024

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

“ (i) The petitioner prays for issuance of an order, direction or writ preferably in the nature of certiorary setting aside the order dated 11.09.2024 passed by the Ld. Special Judge-I (Excise Act) Darbhanga in G.O No. 173 / 2024 in connection with Bahadurpur P.S. Case No. 466 / 2023, whereby, the Ld. Court below has rejected petitioner’s petition while refusing to pass any order on the ground that the confiscation proceedings of the godown sealed by the



authorities has been initiated.

(ii) The petitioner further prays for issuance of writ of mandamus commanding the authorities for the release of petitioner's godown sealed by the authorities and to hand over the possession/custody of the same to its rightful owner – the petitioner.

(iii) The petitioner further prays for issuance of an order, direction or writ preferably in the nature of prohibition staying the confiscation and / or auctioning proceedings of petitioner's godown sealed by the authorities concerned. and/or be pleased to pass such other order or orders as your Lordships may deem fit and proper in the facts and circumstances of the case."

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)

manish/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.12.2024
Transmission Date	NA

