

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17991 of 2023

Hare Krishna Yadav, Son of Late Saryug Yadav, Resident of Village-Madhopur, P.S.-Sasulpur, District-Saran at Chapra.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Home Department, Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The District Magistrate, East Champaran, Motihari.
4. The Senior Deputy Collector, Law and Order, East Champaran, Motihari
5. The Deputy Collector, East Champaran, Motihari
6. The Superintendent of Police East Champaran, Motihari.
7. The Superintendent of Police, Saran at Chapra.
8. The Deputy Superintendent of Police, East Champaran, Motihari.
9. The District Transport Officer (Headquarter). Transport Department, Bihar, Patna.
10. The District Transport Officer, East Champaran, Motihari.
11. The District Transport Officer, Saran at Chapra.
12. The District Transport Officer, Madhepura.
13. The Excise Commissioner, Government of Bihar, Patna.
14. The Superintendent of Police, Excise, East Champaran, Motihari.
15. The Excise Inspector, East Champaran, Motihari.
16. The Station House Officer, Rajepur Police Station, Pakdi Dayal, East Champaran, Motihari.
17. The Investigating Officer, Rajepur P.S. Case No. 57/2019, Rajepur Police Station, Pakdi Dayal, East Champaran, Motihari.
18. The Station House Officer, Chhatauni Police Station, Sadar, East Champaran, Motihari.
19. The Investigating officer, Chhatauni P.S. Case No. 428/2023, Chhatauni Police Station, Sadar, East Champaran, Motihari.
20. Chunnu Kumar, Son of Late Nand Kishore Rai Resident of Vilalge-Amar Chhatauni, Police Station-Chhatauni, District-East Champaran, Motihari.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ravi Raj, Advocate
For the Respondent/s : Mr.Anirban Kundu SC-24

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) For issuance of writ in the nature of mandamus for directing and commanding the responsible respondent authorities to release the vehicle of the petitioner bearing Registration No. UP-65BT-8611 having Engine No. 21G84063295 & Chassis No. MAT448035C5G12097, which has illegally and arbitrarily been seized by the Police personnel of Chhatauni Police Station, East Champaran in connivance with Private Respondent No.20.*
- (ii) For issuance of writ in the nature of mandamus for directing and commanding the responsible respondent authorities to investigate into the matter with respect to the auction of the truck made by the Excise Inspector, East Champaran, Motihari vide order dated 29.05.2023 contained in Memo No. 9139 in connection with Rajepur P.S. Case No. 57/2019 dated 18.05.2019 registered*



under Sections 272, 273, 420/34 of Indian Penal Code and Section 30(a) of Bihar Prohibition & Excise Act, 2018.

(iii) For issuance of writ in the nature of mandamus for directing and commanding the responsible respondent authorities to conduct the investigation in fair and partial manner and to take legal and appropriate immediate action against all the Responsible and guilty officials as well as Private Respondent namely Chunnu Kumar, son of Late Nand Kishore Rai.

(iv) For issuance of writ in the nature of Mandamus for directing and commanding the responsible Respondent Authorities to investigate the matter in connection with Chhatauni P.S. Case No. 428/2023 dated 07.09.2023 registered under Section 379 of Indian Penal Code, whereby and where under this petitioner and his one elder son, who is in Army and posted at Jammu & Kashmir have falsely been implicated in this case by the Private Respondent in connivance with the Police Officials.

(v) For issuance of writ in the nature of mandamus to hand over the investigation to C.B.I. or C.I.D. or any other independent investigating agency



to investigate the matter to produce the real picture of the offence in connection with Rajepur P.S. Case No. 57 of 2019 dated 18.05.2019 and Chhatauni P.S. Case No. 428/2023 dated 07.09.2023 as well as auction of the vehicle bearing Truck Registration No. UP65BT-8611, Engine No. Not Available (N/A), Chassis No. Not Available (N/A) because the present Investigating Officer has been trying to manage the case in connivance with the Private Respondent No. 20 and to take the appropriate legal action against them in the interest of justice.

(vi) For issuance of writ in the nature of mandamus for directing and commanding the responsible respondent authorities to give the adequate compensation amount to the petitioner, which caused due to illegal seizure of the vehicle of the petitioner, due to which this petitioner and his family members are facing hardship towards their lives and fail to meet the basic necessities.

(vii) For issuance of any other order or orders which your Lordship may deem fit and proper in the facts and circumstances of the case.”



2. The alleged offence is stated to have been committed on 17.05.2019 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. UP-65BT-8611 (Truck). 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, due 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)

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

