

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17903 of 2023

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Deepranjan Tiwari @ Dipranjan Tiwari, Son of Late Hari Mohan Tiwari,
Resident of Village- Binod Khareya, P.S.- Gopalpur, District- Gopalganj.

... .. Petitioner.

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Govt. of Bihar, Patna.
2. The District Magistrate -Cum-Collector, Gopalganj.
3. The Superintendent of Police, Gopalganj.
4. The Police Inspector Kuchaikote Police Station, District Gopalganj.
5. The Excise Commissioner, Gopalganj.
6. The Investigating Officer of Kuchaikote P.S. Case No.- 331/2023, District
Gopalganj.

... .. Respondents.

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Appearance :

For the Petitioner	:	Mr. Pankaj Kumar Dubey, Advocate.
For the State	:	Mr. Raghwendra Kumar (SC-22)

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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) A writ in the nature of mandamus or any
other appropriate writ, order/orders,
direction/directions to commanding the
respondent to release, Pulsar Motorcycle
bearing Registration No.BR-28Z-2919,
Chassis No.MD2B72BX9MCD23197,
Engine No.JEXCMD70251 in favour of



the petitioner which has been seized earlier in connection with Kuchaikote P.S. Case No.331/23 registered for the offence under section 30(a) Bihar Prohibition and Excise Amendment Act 2018, forthwith.

(ii) To any other relief/reliefs for which petitioner is found entitled to.”

2. The alleged offence is stated to have been committed on 29.06.2023 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.BR-28Z-2919 (Pulsar 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 pre-mature 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

