

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18412 of 2023

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Sharwan Kumar S/o Parmeshwar Ram, Resident of Village-Ramdih, P.S.-
Satgama, District-Koderma (Jharkhand)

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Divisional Commissioner, Excise Department, Patna Division, Patna.
3. The District Collector, Nawada.
4. The District Superintendent of Police, Nawada

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sheo Kumar Prasad
For the Respondent/s : Mr.Government Advocate 9

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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 release the E-rickshaw bearing
Registration No. JH12M-5514 which
seized by the respondent authorities in
connection with Excise P.S. Case No.
684 of 2023 for the offences registered
under section 30(a), 56(2)(II) of the
Excise Act.

(ii) For till today excise confiscation case
has been not initiated.

2. The alleged offence is stated to have been



committed on 23.08.2023 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. JH12M-5514 (E-rickshaw). 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)

Mayank/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.01.2024
Transmission Date	NA

