

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17957 of 2023

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Savita Devi, Wife of Late Bhagwat Singh, Resident of Mohalla-Kumhrar,
Panchayat Bhawan, P.S.-Agamkuan, District-Patna, State-Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Department of Excise,
Government of Bihar, Patna.
2. The District Magistrate, District-Patna.
3. The Superintendent of Police, District-Patna.
4. The Officer-In-Charge of Excise Police Station, District-Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ankit Raj, Advocate
For the Respondent/s : Mr. S.Raza Ahmad, AAG-5
Mr. Alok Ranjan, AC to AAG-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) For issuance of appropriate Writ, order
or direction in the nature of mandamus
thereby directing the respondents to
release the house in question i.e. one
B.H.K flat situated at ground floor of the
pucca house of the petitioner which is
situated at Mohalla-I.O.C., Colony, P.S.
Agamkuan, District-Patna (hereinafter*



the “said house”) which is seized in connection with Excise P.S. Case No. 1066 of 2023 instituted under Section 30A, 56B of Bihar Prohibition and Excise Act, 2016.

(II) For grant of such other order or direction for which the petitioner is found entitled in the facts and circumstances of the case.”

2. The alleged offence is stated to have been committed on 30.06.2023 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 said house. 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 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 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 12B 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)

manish/-

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

