

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17921 of 2023

Uma Devi, W/o - Uma Chaudhary, R/o - Sidhawal, P.S. - Hussainganj, Distt. - Siwan.

... .. Petitioner

Versus

1. The State of Bihar Through, Secretary Department of Excise, Bihar Patna.
2. The District Magistrate, Gopalganj.
3. The Superintendent of Police, Gopalganj.
4. The S.H.O. Phulwariya P.S, District Gopalganj.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Deepankar Raj, Advocate
For the Respondent/s : Mr. Kunal Tiwary, AC to GA-2

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 directing and commanding the respondent authorities to release the Motorcycle namely Hero Splendor Motorcycle bearing Registration No. BR29AR9745, Engine No. HA11EDMHK07599 and Chassis No. MBLHAW12XMHK14021 in favour of the petitioner which has been seized in connection with Phulwariya P.S. Case No. 423/23 registered on 16.11.2023



under Section 30(a) of Bihar Prohibition and Excise Act Amendment Act-2022.

- (ii) For directing and commanding the respondent authorities to release the Motorcycle namely Hero Splendor in the favour of the petitioner on the ground that the petitioner is the owner of the said Motorcycle and same is lying under open sky in the police station as nobody is there to take care of the motorcycle.*
- (iii) For issuance of any other relief or relief(s) for which the petitioner is entitled for.”*

2. The alleged offence is stated to have been committed on 16.11.2023 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. BR29AR9745 (Splendor 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, 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)

manish/-

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

