

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18446 of 2023

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Nitish Kumar S/o Laxman Yadav, Resident of Village - Dighwa, P.S. -
Baikunthpur, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, and Excise Department,
Government of Bihar, Patna.
2. The District Magistrate, Gopalganj.
3. The Superintendent of Police, Gopalganj.
4. The District Transport Officer, Gopalganj.
5. The Station Head Office, Excise Police Station, Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajeev Ranjan, Advcoate

For the Respondent/s : Mr. Standing Counsel-10

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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, Apache 160 2V RM Disc bearing Engine No. AE8EP2220507, Chassis No. MD634BE85P2E21461, Registration No. not allotted, in favour of the petitioner which has been seized in connection with Gopalganj P.S. Excise Case No.776/23 dated 01.08.2023 registered for the offence under section 30(a) Bihar Prohibition and Excise Amendment Act 2018, and also during pendency of the confiscation case if any arising out of the instant case, as per the provisions of the Bihar Prohibition and Excise Act 2022 (as amended).

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

2. The alleged offence is stated to have been committed on 01.08.2023 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. not allotted, Apache 160 2V RM Disc bearing Engine No. AE8EP2220507, Chassis No. MD634BE85P2E21461. 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	10.012024
Transmission Date	NA

