

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18779 of 2024

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Shambhu Dayal, Son of Ram Chandra Prasad, Resident of Khroniya Bagicha,
Sahara Road, Gulzarbagh, P.O. and P.S.-Gulzarbagh, District-Patna, Bihar-
800007.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary/Additional Chief Secretary, Department of Registration and Prohibition of Excise Department, Government of Bihar, New Secretariat, Patna.
2. The District Magistrate, Patna.
3. The Superintendent of Police, Patna.
4. The S.H.O. Excise P.S., Patna.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Vibhuti Kumar, Advocate
		Ms. Shilpi Singh, Advocate
For the Respondent/s	:	Mr. Government Pleader (2)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE S. B. PD. SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 11-12-2024

In the instant writ petition, the petitioner has prayed
for the following relief(s):

“ (i) For issuance of writ in the nature of Mandamus directing and commanding the respondent authority to unlocking/ release of the seal property/house of the petitioner (i.e. Two story building) situated in 1 Katha No.4, Kheshra No.138, measuring Area 0.14 decimal which was Building 2 story) which was



seized in connection with Excise P.S. Patna F.I.R. No.1123/2023 under section 30(a) and 56(b) of Bihar Prohibition and Excise Act on dated 13.07.2024 by respondent authorities.”

2. 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. 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 instant writ petition is premature and it stands disposed of as not maintainable.

4. Disposal of the instant 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. If such application is submitted before the competent authority, in the prescribed form, the concerned authority is hereby directed to consider the



petitioners’ grievance within a period of two weeks from the date of receipt of such application.

5. With the above observations, instant writ petition stands disposed of.

6. If the confiscation proceedings of the residential house of the petitioner has attained finality in that event petitioner is at liberty to file an appeal under Section 92 of the Bihar Prohibition and Excise Act, 2016 before the appellate authority.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.12.2024
Transmission Date	NA

