

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18435 of 2023

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Mohan Sahni Son of Rajendra Sahni Resident of Village-Mahamadpur Sura,
P.S.-Gaighat, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary Excise Department.
2. The District Magistrate, Muzaffarpur.
3. The S.H.O. of Piar Police Station, District-Muzafarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nachiketa Jha, Advcoate
For the Respondent/s : Mr. Government Pleader 26

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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, Motorcycle (Hero
Delux) bearing Registration No.
BR06DC8472 of petitioner in his favour
which has been seized by Piar Police
Station in Piar P.S. Case No.151/2023
dated 27.07.2023, registered for the
offence under section 30(a) Bihar
Prohibition and Excise Amendment Act



2018, forthwith.

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

2. The alleged offence is stated to have been committed on 27.07.2023 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. BR06DC8472 (Hero Delux). 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	10.01.2024
Transmission Date	NA

