

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.505 of 2024

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Chedi Mandal @ Laddan Mandal @ Lachhu Mandal S/o Panchu Mandal, R/o
Mohalla Labbu Pasi Lane (Parbatti) Anchal Jagdishpur P.S.-
Vishwavidyalaya, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise, Bihar, Patna.
2. The Excise Commissioner, Bihar Patna.
3. The District Collector Cum District Magistrate, Bhagalpur.
4. The Superintendent of Police, Bhagalpur.
5. The Station House Officer/Incharge, Vishwavidyalaya, within the District- Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anupa Jha
For the Respondent/s : Mr. Addl. Advocate General 4

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

2 11-01-2024 In the present petition, petitioner has prayed for the
following reliefs:

*“(A). for issuance of writ in the
nature of Mandamus directing to release /
unseal the residential and joint family house
of the petitioner which was sealed after a
week from the date of institution of FIR as
Excise Case No. 36 of 2021 in
Vishwavidyalaya P.S. against the petitioner
on 08.03.2021 under 30(a) of the Bihar*



Prohibition and Excise Act 2018 and the petitioner's house is situated in the Mohalla Parbatti pertaining to Khata No. 641 Khasra No. 54 K Kh area 0.828 Dicimal holding No. 78/A in Bhagalpur Municipality Under ward No. 13 in which one room has been sealed / locked on 08.03.2021 by the police team under Excise Act. Where 1.5 Ltr. Whisky was recovered from the room where there is batchler tenant was residing there.

(B) To issue appropriate Order/s, direction/s holding that the executive has no power to exercise power of confiscation when the case is pending in the criminal court and the same is under judicial Forum.

(C) Any other relief or reliefs to which the petitioner is found to be entitled to the facts and circumstance of the case.

2. The aforementioned relief cannot be granted in the absence of demand before the competent authority and so also vested duty on the concerned authority. The first ingredient is not forth coming.

3. Be that as it may, under the Bihar Prohibition and Excise Rules, 2021, Rule 12 provides for submission of an application for the purpose of release of seized premises, even such application is not filed and the petitioner has rushed to this



Court seeking writ of mandamus.

4. Accordingly, the present petition stands disposed of as premature.

5. Disposal of the present petition would not be a hurdle for the petitioner to invoke remedy under Rule 12 of Bihar Prohibition and Excise Rules, 2021. If such application is submitted in the prescribed forum, the concerned authority is hereby directed to consider the petitioner’s application within a period of 2 weeks from the date of receipt of such application.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

saaurabhkr/-

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