

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3248 of 2025

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Kamakhya Saw Son of Late Lal Mohan Saw, Resident of Village- Jajapur,
Post- Majhara, Police Station- Goh, District- Aurangabaad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration Excise and Prohibition Department, Government of Bihar, Patna.
2. The District Magistrate-Cum-Collector, Aurangabad.
3. The Senior Superintendent of Police, Aurangabad.
4. The Officer-In-Charge Goh Police Station, Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Abhay Kumar, Advocate
For the Respondent/s : Md. Mahtab Alam AC to SC-20

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 27-03-2025

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

“(i) For issuance of an appropriate writ/writs, order/orders or direction/directions including a writ preferable in the nature of mandamus commanding and direction upon the respondents to unsealed the shop of petitioner which has sealed on 31.10.2021 in connection with Goh P.S case No-220 of 2021 dated-30.10.2021 registered under sections 30(a) of Bihar Prohibition and Excise, Amendment Act. relating to recovery of total 67.45 litre English wine. forth taking into consideration that Nothing incriminating article has been recovered from the shop



and shop has not used in committing the offence under provision of Excise Act, bearing Khata No-202, Plot No-857 area-5 decimal Mauza-Jajapur, Thana No-195 Tauji No-1568.

(ii) For issuance of an appropriate writ/writs, Order/Orders, direction/directions for which the writ petitioner would be found entitled under the facts and circumstances of the case.”

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 pre-mature 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)

(Alok Kumar Sinha, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.03.2025
Transmission Date	NA

