IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4614 of 2025

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Dablu Chaudhary @ Dablu Chaudhari, son of Madan Chaudhari, resident of Lohchi Naki, P.S. Shampur, District-Munger.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise and Prohibition, Bihar, Patna.
2. The Secretary, Bihar Prohibition and Excise, Government of Bihar, Patna.
3. The Commissioner, Excise, Bihar, Patna.
4. The Collector-Cum-Confiscating Officer, Munger.
5. The Circle Officer, Haweli Kharagpur, District-Munger.
6. The District Excise Officer, Munger.
7. The Assistant Sub-Inspector, Kharagpur (Shampur) Police Station, District-Munger.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Ms. Y. Madhavi, Advocate
For the Respondent/s : Mr. Kumar Pankaj, AC to SC-5

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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 S. B. PD. SINGH)

<u>Date : 07-05-2025</u>

In the instant petition, the petitioner has prayed for the following reliefs(s):-

(i) For issuance of an appropriate writ in the nature of certiorari for quashing of the order dated 22.02.2024 passed in Excise Revision Case No. 04/2024 by the Secretary, Prohibition & Excise, Dept. of Prohibition, Excise and Registration, Bihar, Patna whereby and where under the Secretary,

Prohibition & Excise, Dept. of Prohibition, Excise and Registration, Bihar, Patna has dismissed the revision application.

(ii) For further quashing of the order dated 14.08.2023 passed by the Commissioner, Excise, Bihar, Patna in Excise Appeal Case No. 107/2023 arising out of Kharagpur (Shampur) P.S. Case No. 113/2022 registered under Section 30(a) of the Bihar Prohibition & Excise (Amendment) Act whereby and where under the Commissioner, Excise, Bihar, Patna has dismissed the appeal without considering the facts.

(iii) For further quashing of the order dated 11.03.2023 passed by the Collector-cum-Confiscating Officer, Munger in Excise Confiscation Case No. 52/2022-23 whereby the decision has been taken to confiscate 0-2.825 decimal land bearing Touzi No. 6268, Thana No. 25, Khata No. 36, Plot No. 236 having residential house.

(iv) For further direction to the respondent authorities to release the land in question from the confiscation.

(v) And for any other reliefs for which this Hon'ble Court may deem fit and proper.

2. Briefly stated, the facts of the case is that

there is alleged recovery of 7 litres of illicit liquor from the boundary of the land of the petitioner. On the basis of the aforesaid facts, Kharagpur (Shampur) P.S. Case No. 113 of 2022 dated 16.03.2022 instituted case for the offences under Sections 30(a) of the Bihar Prohibition & Excise Amendment Act, 2018.

3. It is submitted by learned counsel for the petitioner that petitioner is owner of the said land. The place from where illicit liquor was recovered is easily accessible to others. The petitioner was not apprehended from the spot nor anything has been recovered from his conscious possession. It is further submitted that on the basis of search and seizure, confiscation proceeding was initiated bearing Confiscation Case No. 52 of 2023 by the Collector-cum-Confiscation Officer, Munger. The petitioner submitted his show-cause reply but without considering the show-cause reply, vide order dated 11.03.2023, the land of the petitioner was ordered to be confiscated. The petitioner, thereafter approached before the Commissioner, Excise, Bihar, Patna against the order of Collector-cum-Confiscation Officer, Munger and filed

Excise(Appeal) No. 107 of 2023 who had directed the petitioner to get his land released after payment of penalty as prescribed under Excise Act. The petitioner, being aggrieved by the order of Commissioner(Excise), Bihar, Patna has filed a revision application before the Secretary, Prohibition & Excise, Bihar, Patna which was rejected vide order dated 22.02.2024 passed in Excise Revision No. 04 of 2024 with an observation that no new facts were mentioned by the petitioner.

4. Learned counsel for the respondents submits that recovery of illicit liquor was made from the boundary of the land of the petitioner. However, the petitioner has alternative remedy to get the land unsealed after making payment of penalty in terms of Rule 12(B) of the Bihar Prohibition & Excise Rules, 2021.

5. From perusal of the record, it has transpired that alleged recovery of 7 litres of illicit liquor has been made from the boundary of the land of the house of the petitioner. Moreover, the recovery is of a meager quantity of illicit liquor from the boundary of the land which is easily accessible to others. Hence, this Court

finds that a penalty of Rs. 5,000/-(Five Thousands) is appropriate in light of the facts and circumstances of the case and petitioner has no objection.

6. We are conscious of the fact that alleged recovery is of meager quantity and the aforesaid order has been passed while invoking extra ordinary jurisdiction under Article 226 of the Constitution of India for the reasons that unnecessarily petitioner shall not be subjected to various proceedings like Rule of 12B of the Bihar Prohibition and Excise Rules, 2021 read Sections 58, 92 and 93 of the Bihar Prohibition and Excise Act, 2016, for a trivial issue relating to seizure of meager quantity of illicit liquor and the aforesaid decision is warranted to prevent multiplicity of proceedings under Excise Act and Rules, in the interest of justice.

7. Considering recovery of small quantity of liquor, the petitioner is directed to remit fine of Rs. 5,000/-(Five Thousands) and the concerned authority is hereby directed to collect fine of Rs. 5,000/-(Five Thousands) and unseal the land of the petitioner within a

period of one week from the date of receipt of this order.

8. Accordingly, the writ petition stands disposed of.

(S. B. Pd. Singh, J)

(P. B. Bajanthri, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	15/05/2025
Transmission Date	N/A