

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3638 of 2022

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Shankar Baranwal S/o Dukhan Shah Resident of Village- Dwarika Pury
Colony Civil Line, Balia (U.P.)

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Excise, Registration and Prohibition, Govt. of Bihar.
2. The Excise Commissioner of Patna Patna
3. The District Magistrate-Cum- Collector, Kaimur at Bhabua.
4. The Superintendent of Police, Kaimur at Bhabua.
5. The S.H.H., Durgawati, Kaimur at Bhabua.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Uday Pratap Singh, Adv.
For the State : 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 P. B. BAJANTHRI)

Date : 16-04-2025

Pursuant to the order dated 18.03.2025, Sri.

Divya Prakash – the then Motor Vehicle Inspector has

appeared before the Court.

2. In the instant writ petition, petitioner has

prayed for following reliefs:-

“ for issuance of writ in the

nature of certiorari or any other

appropriate writ, order or direction for



quashing the order dated 17.01.2022 passed in Excise Revision Case No. 282/2021 by Additional Chief Secretary, Bihar, Patna whereby and whereunder the order dated 10.09.2021, passed in Excise Appeal Case No. 523/2021 by the Commissioner, Excise, Patna and order dated 17.07.2021, passed in Confiscation Case NO. 118/2021 by the District Magistrate, Kaimur at Bhabua, arising out of Durgawati P.S. Case No. 74/2020 have been confirmed and Safari car bearing Registration No. UP-60V-0160 of the petitioner has been confiscated and further for giving direction to release the aforesaid vehicle of the petitioner.”

3. The petitioner’s vehicle Tata Safari bearing Registration No. UP-60V-0160 was alleged to have been involved for the offences under Excise Act and Durgawati P.S. Case No. 74 of 2020 was registered. Perusal of seizure memo, it is evident that the seized vehicle was carrying 180 ml of Royal Stag – 06 bottles. Thereafter,



confiscation proceedings was concluded on 17.07.2021. Feeling aggrieved by the confiscation order, petitioner preferred appeal before the Appellate Authority and in appeal case no. 523 of 2021, suffered an order on 10.09.2021. Subsequently, he has filed Revision Case No. 282 of 2021 in which also he has suffered an order on 17.01.2022. Hence, the present Writ Petition.

4. Subject matter of vehicle was auctioned on 30.03.2022. Petitioner had purchased subject matter of vehicle in the year 2013 and it is valued at approximately a sum of Rs. 14,00,000/- (fourteen lakh rupees) as is evident from Annexure 5 in which sale amount has been mentioned at Rs. 12,49,847/- (twelve lakh forty nine thousand eight hundred forty seven rupees) and it was purchased on 04.10.2013 and in addition registration, road tax and insurance. On 09.03.2020, the date on which offence was alleged to have been committed by the petitioner, subject matter of vehicle was seven years old. Perusal of the today's Counter Affidavit on behalf of the



Divya Prakash - ADTO, Bhojpur initial valuation as on 07.10.2021 is at Rs. 3,20,000/- (three lakh twenty thousand rupees), such evaluation should have been with reference to date of offence viz., 09.03.2020, whereas the vehicle has been auctioned at the rate of Rs. 1,85,000/- (one lakh eighty five thousand). Determination of Rs. 1,85,000/- (one lakh eighty five thousand) valuation is by Divya Prakash, the then Motor Vehicle Inspector, who had inspected and evaluated the value of the vehicle. Perusal of auction documents, it is evident that Sri. Divya Prakash has randomly valued the vehicle for the reasons that there is no individual vehicle's assessment as to how he has come to the conclusion that value of the subject matter of vehicle is at Rs. 3,20,000/- (three lakh twenty thousand rupees) and thereafter, what is the basis to draw inference that auction price would be Rs. 1,85,000/- (one lakh eighty five thousand rupees). It is to be noted not even reference to value of the vehicle purchased and depreciation year wise with reference to



any policy or the Government or General Insurance Company. In the absence of assessment and randomly evaluation of vehicle in wholesale is highly deprecated. Irrespective of movable and immovable property cannot be valued with the naked eye by the bureaucrats of the State of Bihar and proceed to undertake auction and causing the state exchequer under loss and for the concerned person. In almost each and every case Motor Vehicle Inspectors are evaluating valuation of the vehicle in wholesale without there being individual assessment of the vehicle or property with reference to evaluation like date of purchase and value of what would be value as on the date of seizure of the vehicle and on the date of auction.

5. Having regard to the facts that one liter of liquor has been seized from the subject matter of vehicle, petitioner shall not be penalized in seizing vehicle and auctioning the vehicle at throw away price and realised amount remitting in treasury and it would be harsh,



arbitrary and illegal. Therefore, petitioner is entitled to a sum of Rs. 3,00,000/- (three lakh rupees) after deducting a sum of Rs. 20,000/- (twenty thousand rupees) towards penalty insofar as seizure of one litre liquor. During the course of argument, we have posed specific questions to Sri. Divya Prakash. Is he prepared to pay Rs. 1,35,000/- (one lakh thirty five thousand rupees) to the petitioner for having committed irregularity in assessing the valuation of the subject matter of the vehicle? He has expressed his opinion that he would settle the sum of Rs. 1,35,000/- (one lakh thirty five thousand rupees) with the petitioner.

6. He has expressed that he would pay in 03 installments. Instead of paying in three installments, he is hereby directed to pay lumpsum a sum of Rs. 1,35,000/- (one lakh thirty five thousand rupees) within a period of three months from today. State respondents are directed to pay Rs. 1,65,000/- (one lakh sixty five thousand rupees) to the petitioner within a period of three months.



In other words, realised amount is Rs. 1,85,000/- (one lakh eighty five thousand rupees) and penalty would be Rs. 20,000/- (twenty thousand rupees), the remaining amount of Rs. 1,65,000/- (one lakh sixty five thousand rupees) is to be paid to the petitioner. If the aforementioned amount is not paid, petitioner is permitted to file Interlocutory Application to revive this order.

7. With the above observation, the confiscation order, appellate authority order and revision authority order stands modified to the above extent, while exercising extra ordinary jurisdiction under article 226 of constitution and to avoid further leal proceedings.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

Nirajkrs/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	24-04-2025
Transmission Date	NA

