IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3596 of 2025

==

M/s Ashirvad Plasto through its Proprietor Devkinandan Bihani (male), aged about 70 years, Son of Sri Raghunath Prasa Bihani, At Nandan, Post- Lothan Rampuri, Hari, P.S. Maripur, District- Muzaffarpur, resident of near R.K. Ashram, Bela, Mithanpura, Police Station- Bela, District- Muzaffarpur-842002.

... ... Petitioner/s

Versus

1. The State of Bihar through the Collector-cum-District Magistrate, Muzaffarpur.
2. The Excise Commissioner, Department of Excise, Secretariat, Bihar, Patna.
3. The Superintendent of Police, Muzaffarpur.
4. The Excise Superintendent, Muzaffarpur.
5. The Officer-in-Charge, Bela Industrial Estate, Police Station Bela, District-Muzaffarpur.
6. The State of Bihar through the Additional Chief Secretary, Department of Industries, Government of Bihar, Patna.
7. The Managing Director, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, East Gandhi Maidan, Patna- 800004.
8. The Secretary, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, East Gandhi Maidan, Patna- 800004.
9. The Executive Director, Bihar Industrial Area Development Authority (BIADA), Regional Office at Muzaffarpur.
10. Area In-charge, Bihar Industrial Area Development Authority (BIADA), Bela Industrial Area, Department of Industries, Muzaffarpur.
11. Md. Arsad, son of Md. Rasid, resident of village- Godna Khab Toli, Post-Ravelganj, P.S. Ravelganj, District- Saran (Bihar)- 841308, Adhar No.765239230369.

... ... Respondent/s

==

Appearance :

For the Petitioner/s	:	Mr.Ajay Prasad, Adv.
		Mr.Ajit Kumar Sinha, Adv.
For the Respondent/s	:	Mr.Anil Kumar Singh, GP 26
		Mr.Nawal Kishore Singh, Adv.

==

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
C.A.V. JUDGMENT
(Per: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY)

Date : 31-07-2025

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

> *"(i) For quashing of the order dated 24.09.2024 passed by the learned Excise Commissioner (Respondent no. 2) in Excise Appeal Case No. 45 of 2024 on application of the petitioner without assigning any reason against the petitioner.*
> *(ii) For issuance of a direction to the respondent authority with regard to open seal of the petitioner factory bearing Land Plot No. D-13, Industrial Estate, Muzaffapur, area of land 5400 square feet, the lease hold land for production of PVC pipe, granules and suthly on the basis of lease hold land for a period of 93 years which has been sealed by the Excise Department during the pendency of confiscation proceeding and a criminal case OR prejudice right of state for confiscation proceeding.*
> *(iii) For grant of any other relief/reliefs to which the petitioner may be found entitled to in the interest of justice."*

2. Briefly stated, facts of the case is that 13731.840 liters India Made Foreign Liquor (I.M.F.L.) was recovered from different vehicles which were parked in the premises of Ashirvad Plasto Industries. On the basis of alleged recovery, police instituted a case bearing Bela P.S. Case No. 35 of 2023 for the offences punishable under sections 272, 273, 34 of the

Indian Penal Code and sections 30(a), 32(i), 41(i) of the Bihar Prohibition and Excise Act.

3. Learned counsel for the petitioner submitted that petitioner filed an application on 26.05.2010 for allotment of a land for the purpose of running the industries under the name and style of Ashirvad Plasto Industries for production of PVC granules, H.P. Pipe and Suthly. Accordingly, BIADA allotted 5400 Sq. ft. land (Plot No. D-13) to the petitioner on 28.06.2010 and a lease agreement was executed between petitioner and BIADA for a period of 90 years. It has been submitted that after allotment of the land vide allotment letter no. 965 dated 28.06.2010 (Annexure-P/2), petitioner got registered under the Industries Department and installed machinery for the purpose of running the industries and started production of plastic granules and HP Pipe. For the said purpose, on petitioner's application, electricity connection was granted by the Electricity Department. It has been further submitted that several industrial plots are situated on the way to the factory of the petitioner. Petitioner is living out of station for his certain treatment and he had no knowledge about the vehicles parked in the factory premises. It has been further submitted that no illicit liquor has been recovered from the premises of the petitioner and the

trucks which were standing on the way of petitioner's factory have been seized by the police and his factory has been sealed without any authority of law. It has been submitted that petitioner is suffering heavy loss on account of sealing of his factory premises.

3(i). Learned counsel for the petitioner submits that earlier petitioner filed CWJC No. 7204 of 2023 which was disposed of by order dated 28.08.2023 (Annexure-P/7) directing the competent authority to take note of the petitioner's grievance read with the Rule 12B of Bihar Prohibition and Excise (Amendment) Rules, 2022 and proceed to pass an order within a reasonable period of one week from the date of receipt of petitioner's application. Petitioner filed a representation before the concerned authority on 16.09.2023 but no order was passed on his representation. Thereafter petitioner filed another writ petition before this Court vide CWJC No. 18349 of 2023, which was later on permitted to be withdrawn on 22.01.2024 (Annexure-P/8) reserving liberty to the petitioner to invoke appropriate remedy. In the meantime, petitioner had also filed MJC No. 3009 of 2023 for non-compliance of the order dated 28.08.2023 (Annexure-P/7) passed in CWJC NO. 7204 of 2023. During pendency of the said MJC, the District Magistrate passed order on the representation of the petitioner. Accordingly, the said MJC contempt petition was dropped by order dated 08.11.2023 (Annexure-P/9) reserving liberty to the petitioner to assail the order dated 20.09.2023 in accordance with law.

3(ii). Learned counsel submits that petitioner applied for certified copy of the order dated 20.09.2023 passed by the District Magistrate but due to Corona certified copy has not been issued by the Collector. Petitioner filed a writ application bearing Token No. 2759 of 2024 assailing the order of the Collector, however the same was withdrawn as the certified copy of the order of Collector could not be made available for a long time.

3(iii). It has been further submitted that apart from the above proceedings, petitioner filed another writ petition vide CWJC No. 8493 of 2023 for quashing of the order dated 21.04.2023 passed by Joint Secretary of Bihar, Industrial Area Development Authority, Muzaffapur whereby allotment of land to the petitioner has been cancelled, which was disposed of by order dated 11.12.2023 (Annexure-P/10) and the impugned order dated 21.04.2023 was set aside and the matter was remanded back to the authority concerned for passing a fresh order after giving an opportunity of hearing to the petitioner.

3(iv). Learned counsel submits that the order dated 20.09.2023 (Annexure-P/1 to the I.A.) passed by the Collector in Confiscation Case No. 299 of 2023-24 has been assailed by way of filing I.A. No. 1 of 2025. It is submitted that the Collector has rejected the application of the petitioner without assigning any reason, and accordingly it has been prayed that the said order may also be quashed. It has been submitted that against the order dated 20.09.2023 passed by the Collector, Muzaffarpur petitioner filed Excise Appeal No. 45 of 2024 before the Excise Commissioner, Department of Excise, Secretariat, Bihar, Patna. The Excise Commissioner has rejected the appeal filed by the petitioner by order dated 24.09.2024. Learned counsel submitted that Collector, Muzaffapur has rejected the claim of the petitioner for unsealing of the premises which has been upheld by the Excise Commissioner and thereby they have committed error in not granting the benefit of Rule 12B of Bihar Prohibition and Excise (Amendment) Rules, 2022 to the petitioner who is *bona fide* and innocent owner of the premises in question. Petitioner having no other efficacious remedy available to him, has filed the present writ application for quashing of the orders passed by the Collector and the Commissioner and also for unsealing of the petitioner's factory premises. Learned counsel submits that petitioner is ready to deposit an amount of Rs. 5,00,000/- (Rupees Five Lakhs), in five equal monthly installments, as penalty for release/unsealing of the factory premises in question. Learned counsel has also filed an undertaking in this regard on behalf of the petitioner.

4. Learned counsel for the State submits that there is alleged recovery of 13731.840 liters illicit foreign liquor from the vehicles parked in the premises of petitioner's factory, and accordingly, Bela P.S. Case No. 35 of 2023 was registered. It has been submitted that petitioner has directly approached this Court without availing the remedy of revision before the concerned authority under section 93 of the Bihar Prohibition and Excise Act and in the light of aforesaid fact the present writ petition is not maintainable. Learned counsel submitted that the order dated 24.09.2024 is passed by the Commissioner in Excise Appeal No. 45 of 2024 affirming the order dated 20.09.2023 passed by the Collector, Muzaffarpur in Confiscation Case No. 299 of 2023-24 by which the application under Rule 12B of Bihar Prohibitoin and Excise (Amendment) Rules, 2022 filed by the petitioner to get his factory unsealed upon deposit of the amount of fine, has been rejected. It is submitted that the orders passed by the Collector and the Commissioner are justified and

legal as there is recovery of huge quantity of illicit foreign liquor, and therefore, no interference is needed.

5. There has been amendment in the Bihar Prohibition and Excise Rules, 2021 and a new Rule 12B has been inserted, which reads as under :

> *"**12B. Release of Premises on Payment of Penalty**:- (1) If any premises or part thereof has been seized or sealed by any police or excise officer under the Act, then in terms of section-57B (2) of the Act, the Collector or an officer authorized by him, upon receipt of an application in Form V from the owner of the said premises, may release or unseal the said premises or part thereof upon payment of such penalty as may be ordered by the Collector or the officer authorized by him. Provided, where it is not possible to ascertain the owner of the premises or the owner is not coming forward, the Collector or the officer authorized by him shall, after waiting for 15 days from the date of seizure/sealing, proceed to confiscate the premises as per the provisions of the Act.*
>
> *(2) The Collector or the officer authorized by him shall have due regard to the economic status of the individual, nature of his involvement in the crime, location of the premises and the quantum of intoxicant recovered while deciding the quantum of fine to be paid by the individual. However, the fine shall not be less than Rs. one Lakh in any case. In any case, the Collector shall not wait beyond 15 days from the date of seizure/sealing and if during this period, the accused/owner does not pay up the penalty he shall proceed with the confiscation/auction.*
>
> *(3) Notwithstanding above, if*

on a report by police officer or excise officer, the Collector or the officer authorized by him is satisfied that releasing the premises shall not be in the public interest, the Collector or the officer authorized by him shall proceed ahead with the confiscation of the said premises or part thereof and its subsequent auction/disposal.

(4) Such penalty shall be, regardless of the outcome of the trial if any, before the Special Court, non-refundable.

(5) The owner of the Premises shall, after the release of the premises, allow the inspection of the premises as and when desired by the authorities."

6. From the analysis of the aforesaid statutory provision, it is evident that there is provision for release/unsealing of the premises on payment of penalty.

7. In the present case, from the factory premises of the petitioner, illicit foreign liquor loaded on different vehicles which were parked there was recovered and in the light of the aforementioned statutory provisions, the premises can be released/unsealed on payment of penalty.

8. It is pertinent to note here that petitioner had approached this Court on several occasions and has also been running from one authority to another seeking release/unsealing of his factory premises. Petitioner has suffered a lot in pursuing his grievance before different authorities. Furthermore, petitioner is ready to deposit an amount of Rs. 5,00,000/- (Rupees Five Lakhs),

in five equal monthly installments, as penalty for release/unsealing of the factory/premises in question. In the earlier writ petition (CWJC No. 7204 of 2023), petitioner was permitted to place his grievance before the authority concerned and the concerned authority was directed to consider his grievance in the light of the provisions as contained in Rule 12B of the Bihar Prohibition and Excise (Amendment) Rules, 2022 which provides for release of premises on payment of penalty in favour of a person who is said to have been accused of the offence of storage of illicit liquor but the concerned authority has not taken into account the aforesaid aspect.

7. Keeping in view the submissions advanced on behalf of the parties, the relevant rule on the issue and the discussions made above, the order dated 24.09.2023 passed by the Excise Commissioner, Bihar, Patna in Excise Appeal No. 45 of 2024 as well as the order dated 20.09.2023 passed by the Collector, Muzaffarpur in Confiscation Case No. 299 of 2023-24 are hereby modified insofar as imposition of penalty/fine.

8. On the basis of material available on record, we feel sealing of factory/premises would be too harsh on the petitioner. Therefore, petitioner is directed to pay a fine of Rs. 5,00,000/- (Rs. Five lakhs), as agreed by him during the course of arguments, in five equal monthly installments. On deposit of fine of Rs. 5,00,000/- (Rs.

Five lakhs) in five equal monthly installments, the factory/premises in question be unsealed. Certified copy of this judgment shall be produced within two weeks before the Collector, Muzaffarpur while paying a sum of Rs. 1,00,000/- (Rupees One Lakh) as 1st installment, on such payment deseal subject premise, if petitioner fails to pay remaining Rs. 4,00,000/- (Rupees Four Lakhs) in four monthly installment, State is permitted to file Interlocutory application to revive this order for re-sealing of subject premise.

9. With the above observation/direction, the present writ petition stands disposed of.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

mcverma/-

AFR/NAFR	AFR
CAV DATE	28.07.2025
Uploading Date	31.07.2025
Transmission Date	NA