IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10446 of 2025

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Kush Kumar Mishra, Son of Shri Bhagwan Mishra, Resident of Plot no.- 135, Ashiyana Nagar, Phase-1, P.S.- Rajiv Nagar, Distt.- Patna- 800025.

... ... Petitioner.

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Government of Bihar, Patna.
2. The Commissioner, Excise, Patna.
3. The Collector- Cum- District Magistrate, Munger.
4. The S.H.O., Dharhara Police Station, District- Munger.
5. The S.H.O., Budha Colony Police Station, Patna.

... ... Respondents.

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Appearance :

For the Petitioner : Mr. Krishna Kant Singh, Advocate.
For the State : Mr. Government Advocate (09).

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 21-08-2025

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

> "i. For issuance of a writ in the nature of 'Certiorari' for quashing the confiscation order dated 09.02.2024 passed by the District Magistrate, Munger, in Confiscation Case No.17/2023-24, and the appellate order dated 14-1-2025 passed by the Commissioner, Excise, Patna, in Excise Appeal Case No.83/2024 to the extent whereby he has ordered to impose penalty of 10 percent.
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> ii. For issuance of a writ directing the respondents to release the petitioner's motorcycle bearing registration number BR-01EA-6070, chassis number MBLJAR011J9F04751, and engine number JA06EHJ9F37606.

iii. For directing the State of Bihar to compensate the petitioner for the harassment, mental agony, financial loss, and decree of the motorcycle caused due to the illegal confiscation and failure of the authorities to recover and return the stolen Motorcycle and keeping the said motorcycle in open.

iv. For issuance of an appropriate writ restraining the concerned respondents not to proceed further to auction the petitioner’s motorcycle in question

v. For other necessary relief/ reliefs for which the petitioner may be found entitled to in the facts and circumstances of the case.”

2. Petitioner’s vehicle bearing Registration No.BR-01EA-6070, Chassis No.MBLJAR011J9F04751 and Engine No.JA06EHJ9F37606, was subjected for the offence under Section 379 of the Indian Penal Code (theft of the vehicle). On 07.02.2023, petitioner had registered F.I.R.. Thereafter, the stolen vehicle was involved for the offences under the Excise Act on 06.08.2023. In this backdrop, it is crystal clear that the petitioner-the owner of the motorcycle is not involved for the offences under the Excise Act.

3. Taking note of these material information and in all fairness, the concerned authority should have released the vehicle in favour of the petitioner to the extent that his involvement for the offences under the Excise Act is not forthcoming. On the other hand, they have proceeded to complete the confiscation proceedings on 09.02.2024. Thereafter, the petitioner preferred appeal before the Appellate Authority and the Appellate Authority modified the confiscation order to the extent that the petitioner is liable to pay 10% of the insured value of the vehicle. None of the authorities have apprised that the petitioner's involvement for the offences under the Excise Act is not forthcoming. Therefore, question of confiscation of the petitioner's vehicle or asking the petitioner to pay penalty is arbitrary and illegal. Therefore, the impugned action of the respondents insofar as confiscation order and the order of the Appellate Authority dated 14.01.2025 stands set aside. The concerned authority is hereby directed to release the petitioner's vehicle bearing Registration No.BR-01EA-6070, Chassis No. MBLJAR011J9F04751 and Engine No. JA06EHJ9F37606, after due verification of the ownership of the motorcycle within a period of one week from the date of receipt of this order.

4. Petitioner has been unnecessarily harassed insofar as subjecting him to confiscation proceedings, appeal proceedings and before this Court, for the reasons that on the face of the record, his involvement for the offences under the Excise Act is not forthcoming. Therefore, instant writ petition is to be allowed with a cost, which is quantified at Rs.10,000/- (Rupees Ten Thousand). Cost shall be paid to the petitioner by the concerned official respondent within a period of two weeks from the date of receipt of this order.

5. Accordingly, instant writ petition stands allowed.

(P. B. Bajanthri, J)

(Shailendra Singh, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.08.2025.
Transmission Date	NA