IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6010 of 2025

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Lalati Devi W/o Late Bachu Nat, Resident of village - Ahiyarpur, P.S. Noorsarai, District - Nalanda, Bihar.

... ... Petitioner/s

Versus

1. The State of Bihar through Secretary, Department of Prohibition, Excise and Registration, Government of Bihar, Patna.
2. The Secretary, Department of Prohibition, Excise and Registration, Government of Bihar, Patna.
3. The Excise Commissioner, Department of Prohibition, Excise and Registration, Government of Bihar, Patna.
4. The Additional Collector-cum-Additional District Magistrate, Nalanda, Bihar, Patna.
5. The District Magistrate, Nalanda, Bihar Sharif.
6. The Deputy Collector Land Reforms, Bihar Sharif, Nalanda, Bihar.
7. The SHO, Noorsarai P.S., Nalanda.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Binod Kumar Singh
For the Respondent/s	:	Mr.Standing Counsel (25)

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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 a writ of certiorari or any other appropriate writ(s), order (s) or direction in the nature thereof, for setting aside order dated-07.01.2025 passed in Excise Appeal Case No.115 of 2024 (Lalti Devi vs.*

Collector, Nalanda & Ors.) by Respondent No.3-the Excise Commissioner, Patna, only to the extent of imposition of fine of Rs. 1,00,000/- on the petitioner, as the same is onerous and exorbitant on the petitioner;

ii. For issuance of any other appropriate writ, order, direction for which the writ petitioner would be found entitled to under the present facts and circumstances.

2. There is recovery of 4 litres of country made liquor from the residential house of the petitioner. On the basis of the aforesaid facts, Noorsarai P.S. Case No. 403 of 2021 dated 28.11.2021 was instituted under Sections 272, 273 of the Indian Penal Code and Section 30 (a) of the Bihar Prohibition & Excise Act, 2018.

3. It is submitted by learned counsel for the petitioner that petitioner is an old widow lady belonging to BPL category. She works as daily house help in the neighbourhood for earning her livelihood. She further stated that during the life time of her husband, a small piece of land was purchased by the petitioner through registered sale deed. The petitioner had nine daughters in which one

daughter is left to be married. She used to live in the said house with her unmarried daughter. The petitioner has further submitted that after seizure of the illicit liquor, a confiscation proceeding was initiated by the concerned authority and residential house of the petitioner was confiscated and sealed vide order dated 03.05.2022 passed in Excise Confiscation Case No. 13 of 2022 by the Deputy Collector, Land Reforms, Biharsharif. The petitioner further submitted that being aggrieved by the order of the DCLR, Biharsharif, the petitioner filed Excise Appeal No. 115 of 2024 before the Commissioner, Excise, Bihar, Patna. The Excise Commissioner was pleased to set aside the order of the DCLR, however, directed to release the part of the residential house of the petitioner which was seized, subject to payment of penalty of Rs. 1,00,000/-(One Lakh) as per Rule 12(Kh) of the Bihar Prohibition & Excise Rules, 2021. The petitioner is a poor old lady and she cannot arrange for payment of penalty of Rs. 1,00,000/-. Moreover, alleged illicit liquor was seized from the possession of the son-in-law of the petitioner. It is further submitted that the respondent authorities, while passing the order did not appreciate Rule 12A (2) of the Bihar Prohibition & Excise Rules, 2021, in which the quantum of recovered liquor is one of the key factors which has to be considered while imposing the penalty over the seized vehicle under the Bihar Excise & Prohibition Amendment Act, 2018.

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

5. From perusal of the record, it has transpired that alleged recovery of 4 litres of illicit country made liquor has been made from the house which was owned by the petitioner. The petitioner claims that recovery was not made from her conscious possession, rather recovery was made from the son-in-law of the petitioner.

6. In that view of the matter, this Court finds that a penalty of Rs. 5,000/-(Five Thousands) is appropriate in light of the facts and circumstances of the case, for which petitioner has no objection.

7. Accordingly, the order dated 07.01.2025 passed by learned Commissioner, Excise, Bihar, Patna vide Excise Appeal No. 115 of 2024 is modified to the above extent.

8. 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 12A 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 4 litres of country made liquor and the aforesaid decision is warranted to prevent multiplicity of proceeding under Excise Act and Rules, in the interest of justice.

9. Considering the facts aforesaid, the petitioner is directed to remit a penalty of Rs. 5,000/-(Five Thousands) and the concerned authority is hereby directed to collect fine of Rs. 5000/-(Five Thousands) and release the part of the residential house of the petitioner, which was seized, within a period of one week from the date of receipt of this

order.

10. 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