

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13174 of 2025

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Bittu Kumar Gupta S/o Sudarshan Prasad Gupta, R/o Village- Bhantapokhar,
P.S.- Siwan, Dist. -Siwan

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary Excise and Prohibition Department
Gov. of Bihar, Patna.
2. The Excise Commissioner, Bihar, Patna.
3. The District Magistrate, Gopalganj, Bihar
4. The Superintendent of Police, Gopalganj, Bihar
5. The Superintendent of Excise, Gopalganj, Bihar
6. The SHO, Excise Gopalganj, Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Kumar Harshvardhan, Advocate
For the Respondent/s	:	Mr. Nadim Seraj, Government Pleader (5)
		Mr. Dhurendra Kumar, AC to GP-5

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE SOURENDRA PANDEY
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

3 14-11-2025 Heard learned counsel for the petitioner and

learned Government Pleader No. 5 for the State.

2. Petitioner in the present case is seeking release of
the vehicle Hero Splendor+ bearing registration No. BR-29-
AH-1170, Engine No. HA10AGKHD05908 and Chassis no.
MBLHAW080KHD03585.

3. He is aggrieved and dissatisfied with the order of
confiscation passed by the Sub Divisional Judicial Magistrate



(in short, 'SDJM'), Gopalganj in Sub-Division Confiscation (Excise) Case No. 254 of 2024. Vide order dated 16.07.2024, the SDJM, Gopalganj has directed for confiscation of the vehicle in question which was found carrying 28.8 ltrs liquor approximately.

4. Learned counsel for the petitioner submits that the vehicle in question was stolen away from his possession for which he had lodged a case being Siwan P.S. No. 618 of 2023 (Annexure-P/4). Upon investigation police has submitted a final form saying that the occurrence is true but there is no clue. Learned counsel for the petitioner submits that during the period when the vehicle remained in possession of thieves, the vehicle has been intercepted by police with the liquor and in this connection Excise P.S. Case No. 39 of 2024 under Section 30(a) of the Bihar Prohibition and Excise Act, 2018 has been registered.

5. Learned counsel for the petitioner submits that the Superintendent of Police, Gopalganj has vide his letter no. 611 dated 28.08.2025 written to the Excise Superintendent, Gopalganj to release the vehicle in question keeping in view the order of this Court. Copy of the said letter has been enclosed with the counter affidavit filed on behalf of the



Superintendent of Police, Gopalganj (respondent no. 4) as Annexure-B.

6. It is further submitted that the order of confiscation dated 16.07.2024 was passed without serving any notice and opportunity to the petitioner to file show cause. Submission is that the show-cause notice (Annexure-R/3/B) enclosed with the counter affidavit of respondent nos. 3, 5 and 6 was never served upon the petitioner. The respondents have not specifically answered the statement of the petitioner in this regard made in paragraph no. 14 of the writ petition.

7. Mr. Nadim Seraj, learned Government Pleader No. 5 submits that order of confiscation was passed after giving appropriate opportunity to the petitioner. He has submitted that even as there is no proof of dispatch of notice Annexure-R/3/B to the counter affidavit, the fact remains that there was a paper publication also in form of public notice for about 132 vehicles and one of them was the present vehicle. He has drawn our attention to Annexure-R/3/C to the counter affidavit.

8. We have heard learned counsel for the petitioner and learned Government Pleader No. 5 for the State. It is evident from the materials available on the record that so far



as the personal notice to the petitioner is concerned, there is nothing on the record of the counter affidavit to show that how the notice as contained in Annexure- R/3/B was dispatched/sent to the petitioner.

9. We have noticed from the order-sheets of the Court of SDJM, Gopalganj that on 18.03.2024 an order was passed to issue notice and to go for paper publication but later on there is nothing on the record to show that the notice was served upon the petitioner. Moreover, we have noticed from the cutting of the newspaper enclosed as Annexure-R/3/C which is in form of a public notice that in name of public notice only formality has been done. The font size of the notice is such that the notice cannot be easily read by a person and it is very difficult for us to find out with our naked eyes that where is the name of the petitioner in this notice. We hold that such public notice is only to complete the formality which we do not approve.

10. In the peculiar facts of the case, where the theft case lodged by the petitioner had resulted into submission of final form saying that the occurrence was true but no clue and the Superintendent of Police, Gopalganj has written to the Excise Superintendent, Gopalganj for release of the vehicle in



question, we set aside the order of confiscation which is available in the counter affidavit and direct the Excise Superintendent, Gopalganj to release the vehicle in question in favour of the petitioner unconditionally.

11. This writ petition stands allowed.

(Rajeev Ranjan Prasad, J)

(Sourendra Pandey, J)

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