

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15887 of 2024

Indradev Sharma, S/o Rajendra Sharma, Resident of Village-Kahara Patuaha,
P.S.-Saharsa District- Saharsa.

... .. Petitioner

Versus

1. The State of Bihar through Principal Secretary, Department of Excise, Government of Bihar, Patna.
2. The Commissioner, Department of Excise, Government of Bihar, Patna.
3. The District Magistrate, Saharsa.
4. The Superintendent of Police Saharsa.
5. The Station House Officer, Saharsa Sadar, District-Saharsa.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Suraj Kumar, Advocate Mr. Pramod Mishra, Advocate
For the Respondent/s	:	Mr. Vinay Kirti Singh, Sr. Advocate Mr. Ranjan Prakash, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 24-01-2025

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

*“1. That this instant writ application
has been filed on behalf of the petitioner named
above to seeks indulgence of this Hon’ble Court to
issue a writ preferably in the nature of certiorari
setting aside the order dated 04.09.2023 passed in
Excise Appeal Case No. 108/2023 passed by
Department of Excise, Government of Bihar,
Patna, whereby and where under the learned court*



of Excise Commissioner has affirmed the order dated 31.12.2022 passed by the learned Court of Collector Cum District Magistrate, Saharsa, in confiscation (Excise) Case No. 963/2022-23 by the prayer for release of the house of the petitioner which was seized by the police in connection with Saharsa P.S. Case No. 490/2022 registered under section 30(a), 41 of Bihar Prohibition and Excise Act has been rejected as also directing the Respondents Concerned to release the house of the petitioner which has been seized by the Respondents concerned after alleged recovery of 409.32 Liters of foreign liquor. And/Or pass such other order/order as your lordship may deem fit and proper in the facts and circumstance of the case.”

2. Petitioner's premises situated in Ward no.2, P.S. & District – Saharsa is involved for the offences under the Bihar Prohibition and Excise Act, 2016 for which F.I.R. was registered and seizure memo has been prepared. Thereafter, seizure authority has sent a report to the concerned District Collector for taking further action insofar as initiating confiscation proceedings and it has attained finality on 31.12.2022 and it is against the petitioner. Petitioner has invoked remedy of appeal before the Appellate authority under Section 92 of the Bihar Prohibition and Excise Act, 2016 and in appeal order of the



confiscation dated 31.12.2022 has been confirmed, hence the present Writ petition.

3. Learned counsel for the petitioner submitted that under the Excise statute, there is a provision for imposing of penalty in terms of monetary and the same has not been invoked by the respective authorities. On the other hand, they have confiscated the aforementioned premises of the petitioner resulted in hardship and it is in violation of Article 21 of the Constitution insofar as livelihood is concerned. Matter relates to remand to the concerned authority, however, having regard to the fact that subject matter of premises has been seized for more than two years and few months and it is not appropriate for this Court to remand the matter to the concerned authority to modify the confiscation order to the extent of imposition of certain penalty in terms of monetary.

4. Having regard to the geographical area in which the premises is situated and its dimension read with valuation, we are of the view that instead of confiscating the subject matter of premises, the concerned authority may recover a sum of Rs. 2,00,000/- (Rs. Two Lakhs) towards penalty. Accordingly, the orders of the authorities stands modified from confiscation of subject matter of premises to that of imposition of penalty of Rs.



Two Lakh.

5. Petitioner is hereby directed to furnish a demand draft in favour of the concerned Government treasury. After depositing Rs. Two Lakh in the concerned Government treasury, he is hereby directed to approach the concerned authority for the purpose of releasing the subject matter of premises. Petitioner is permitted to undertake the above exercise within a period of one month from today. The concerned authority is hereby directed to release the subject matter of premises within a one week from the date of deposit of Rs. 2,00,000/- (Rs. Two Lakhs) towards penalty.

6. With the above observation, the present C.W.J.C. No. 15887 of 2024 stands disposed of.

(P. B. Bajanthri, J)

(Sunil Dutta Mishra, J)

manish/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.01.2025
Transmission Date	NA

