

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19721 of 2024

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Shailesh Singh @ Bhola Singh S/o Late Shyam Prasad Singh @ Late Shyam Prasad Singh, Resident of Village Sitalpur Babutola, P.S.-Dighwara, District-Saran.

... .. Petitioner/s

Versus

1. The Commissioner, Department of Excise, Government of Bihar Patna.
2. The District Magistrate cum District Collector, Saran at Chapra.
3. The Superintendent of Police, Saran at Chapra.
4. The Excise Superintendent, Saran at Chapra.
5. The Station House Officer Dighwara Police Station, Saran at Chapra.
6. The Investigation Officer of Dighwara P.S. Case No. 184/2023
7. Shree Satyendra Kumar, S/o Shree Nand Kishore Rai, R/o Village-Sitalpur Tole Chhattar Chhapra, P.S.-Dighwara, District-Saran.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Manish Chandra Gandhi, Advocate
For the Respondent/s	:	Mr. Ravi Kumar, AC to GP-13
		Mr. Akshay Lal Prasad, AC to GP-13

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

Date : 06-02-2025

Heard learned counsels for the parties.

2. In the instant petition, petitioner has prayed for following reliefs:-

- “(i) For issuance of a writ in the nature of mandamus directing and commanding the respondents to unseal and release the house of the petitioner which has been sealed in Dighwara P.S. Case No. 184/2023 instituted for an offences under Section 30(a) of the Bihar



Prohibition and Excise Act, 2016.

- (ii) For issuance of any other appropriate writ/ writs, order /orders, direction/directions of which the petitioner shall be entitled under the circumstances of the case.”

3. The petitioner has remedy of submission of application under Rule 12B of the Bihar Prohibition and Excise Rules, 2021 read with amended sub Rule 2 of Rule 12B in the year 2022 and 2023. Before invoking the aforementioned provisions and approaching the concerned authority, the petitioner has rushed to this Court. Be that as it may, even there is no representation. For seeking writ of mandamus, there must be a demand before the competent authority. At the same time, duty is cast on the concerned public authority. The first ingredient of demand before the competent authority is not forthcoming.

4. Accordingly, the present writ petition is premature and it stands disposed of as not maintainable.

5. Disposal of the present writ petition would not be a hurdle for the petitioner to invoke remedy under Rule 12B of Bihar Prohibition and Excise Rules, 2021 including amended provisions in the year 2022 and 2023. If such application is submitted before the competent authority, in the prescribed



form, the concerned authority is hereby directing to consider the petitioners’ grievance within a period of two weeks from the date of receipt of such application.

6. With the above observations, the present writ petition stands disposed of.

7. If the confiscation proceedings of the residential house of the petitioner has attained finality, in that event, petitioner is at liberty to file an appeal under Section 92 of the Bihar Prohibition and Excise Act, 2016 before the appellate authority.

(P. B. Bajanthri, J)

(Sunil Dutta Mishra, J)

rakhi/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	12.02.2025
Transmission Date	

