IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1337 of 2025

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Mukesh Kumar @ Mukesh Ram Son of Vipat Ram, Resident of Dargah Bela, Village Chakjado (Manikpur Thagu), @ Akhtiarpur, P.S. Baligao, District-Vaishali. ... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise, Patna, Bihar.
2. The District Magistrate, Vaishali.
3. The Additional Collector, Vaishali.
4. The Superintendent of Police, Vaishali.
5. The S.H.O. Baligao, Police Station, Vaishali.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Subhash Kumar, Advocate
		Mr. Manoj Kumar Singh, Advocate
For the State/s	:	Mr. Sarvesh Kumar Singh, AAG-13
		Mr. Abhinav Alok, AC to AAG-13

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE S. B. PD. SINGH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

3 30-04-2025 In the instant petition, petitioner has prayed for the following reliefs:

> *"A. To quash and set aside the order dated 11.12.2023 passed in Excise Appeal Case No. 154/2023 (Govt. vs. Mukesh Ram) by the Court of Excise Commissioner, Bihar, Patna as the same has been passed in utter disregard of law. Moreover the land including Bathan has been confiscated without going into the fact that not a single drop of liquor has been seized, the material and utensil seized during*

raid cannot be connected to have been used as means for commission of the offence under Section the Excise Act, 2016 or under Bihar Prohibition & Excise (Amendment) Act, 2018.

Presumption cannot be the basis of confiscation, hence power exercised for confiscation suffers from conjectures and surmises and on a mere imagination, hence misuse of power by the police.

B. Any other relief(s) for which the petitioner is found entitled to."

2. The petitioner premises was subjected to offences under Section 30(c)(d) of the Bihar Prohibition & Excise (Amendment) Act, 2018 (for short "Act 2018") and registered FIR at Baligaon P.S. Case No. 125/2021. The petitioner premises was titled as Ayan Enterprises registered under the Bihar Shops and Establishment Act, 1953 on 05.10.2021 for the purpose of production of mineral water. In this regard, he had purchased pouch making machine and other related materials. The official respondents are of the view that these materials are meant for production of Wine. Resultantly, FIR has been registered. The subject land was in confiscation of 0.1½ decimal land out of 0.10 decimal of land Khata No. 333 Khesra No.

2092 was confiscated and confirmed by the Appellate Authority.

3. Perusal of seizure memo, it is evident that not even a single drop of liquor has been seized from premises. Only with reference to the machinery and few water bottles, the authorities have drawn inference that these machinery read with utensils are earmarked for production of wine. Such presumption cannot be drawn by the concerned authority and proceed to initiate proceedings in framing FIR for the offences under Section 30(c)(d) of Act, 2018. Even the petitioner do not possess certain requisite certificates and avail authorization by the concerned Government insofar as commencing and running the mineral water production is concerned, that does not mean that the seized material is earmarked for production of wine. On the other hand, in the absence of seizure of any drop of liquor, if the petitioner has violated any other provision other than the Excise Act, the concerned Authority should have initiated proceedings and not for the offences under the Excise Act, which has not been appreciated by the Confiscating Authority or Appellate Authority. There is no seriousness in the investigation read with the relevant provision of Excise Act so as to determine which are the material is required to be seized and not even corroborative material evidence is available so as to draw

inference that the seized materials are meant for production of liquor. The action of the respondents are nothing but harassing the petitioner.

4. In the light of these facts and circumstances of the case, the petitioner has made out a case so as to interfere with the impugned order dated 11.12.2023, they are set-aside. Accordingly, Writ petition stands allowed with cost of Rs. 20,000/- (Rupees Twenty Thousand). Cost shall be paid to the petitioner within a period of eight weeks from the receipt of this order, so also subject premises shall be released in favour of the petitioner after due verification of the revenue records and release the same in favour of the petitioner forthwith. Cost is warranted for unnecessarily petitioner was subjected harassment for these many years and compelling him to face various proceedings like Confiscation, Appeal and CWJC.

5. Accordingly, Writ petition stands disposed of.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

Sudhanshu/-
Manish/-

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