

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18480 of 2025

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Bhagwan Mistri @ Bhagwan Sharma Son of Ramdhani Mistri, Resident of
Village- Dalpatpur, P.O.- Chaparwar, PS- Hariharganj, District- Palamu,
Jharkhand.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Prohibition, Excise and
Registration Department, Government of Bihar, Patna.
2. The Commissioner, Government of Bihar, Patna.
3. The District Magistrate, Aurangabad.
4. The Excise Superintendent, Aurangabad, District- Aurangabad.
5. The District Land Reforms Deputy Collector-cum-Confiscating Officer,
Aurangabad.
6. The Officer-in-Charge, Amba Police Station, Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Pramendra Kumar Singh, Adv. Mr. Niraj Kumar, Adv.
For the State	:	Mr. Uday Shankar Sharan Singh, GP-19

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

and

HONOURABLE MR. JUSTICE PRAVEEN KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH)

Date : 22-01-2026

The present writ petition has been filed for quashing the
order dated 19.2.2025, passed by the Deputy Collector, Land
Reforms Department-cum-Presiding Officer, Aurangabad in



connection with Confiscation Case No. 46/2024, whereby and whereunder an order for confiscation of the vehicle of the petitioner bearing Registration No. JH-03AC-8034 has been passed along with the order to confiscate 24 other vehicles.

2. The brief facts of the case are that one Amba P.S. Case No. 49/2024 was lodged on 15.3.2024 under Section 30(a) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as “the Act, 2016”) against one Chandan Kumar Sharma and owner of white colour Bolero vehicle bearing Registration No. JH-03AC-8034, which in fact belongs to the petitioner, on account of recovery of 700 liters of spirit from the said vehicle.

3. The learned Court of Deputy Collector, Land Reforms Department-cum-Presiding Officer, Aurangabad had initiated confiscation proceedings qua the vehicle of the petitioner and other vehicles and a composite order of confiscation, pertaining to 25 vehicles has been passed as also it has been directed to get the valuation of the said vehicles done, whereafter action be taken to auction the same.

4. The learned counsel for the petitioner has submitted that first of all, no reason has been assigned in the impugned order dated 19.2.2025 for confiscating the vehicle of the petitioner, apart from a bald statement with regard to all the 25 vehicles



that liquor was recovered from the said vehicles and even after notice, no person / owner of the vehicles has come and put forth their defence, hence the vehicles are being confiscated. It is further submitted that no notice was given to the petitioner so as to enable him to put forth his defence before the confiscating authority, hence the order dated 19.2.2025 is perverse and fit to be set aside. Nonetheless, it is submitted by the learned counsel for the petitioner that the petitioner is ready to pay penalty for getting his vehicle released, by filing appropriate petition under Section 12A of the Bihar Prohibition and Excise (Amendment) Rules, 2023 (hereinafter referred to as to “the Rules, 2023”).

5. *Per contra*, the learned counsel appearing for the State has referred to the counter affidavit, filed in the present case and has submitted that notice was issued to the owner of the vehicles in question through registered post, however the petitioner had failed to appear in the confiscation proceedings, leading to passing of an *ex parte* order dated 19.2.2025. Nonetheless, the learned counsel for the Respondent-State has fairly admitted that no separate reason has been furnished in the impugned order dated 19.2.2025 for confiscation of the vehicle of the petitioner.

6 We have heard the learned counsel for the parties and



perused the materials on record. At the outset, we would gainfully reproduce Section 58 of the Act, 2016 hereinbelow:-

“58. Confiscation by District Collector.-

(1). Notwithstanding anything contained in this Act or any other law for the time being in force, where anything liable for confiscation under this Act is seized or detained under the provisions of this Act, the officer seizing and detaining such property shall, without any reasonable delay submit a report to the District Collector who has jurisdiction over the said area;

(2). On receipt of the report under sub-section (1), the District Collector if satisfied that an offence under this Act has been committed, may, whether or not prosecution is instituted for the commission of such an offence and whether or not a case is pending before any court, order confiscation of such property;

(3). The Collector shall, before passing an order under sub-section (2), give a reasonable opportunity to the person concerned, of being heard;

(4). While making an order of confiscation under sub-section (2), the District Collector may also order that such of the properties which the order of confiscation relates, which in his opinion cannot be preserved or are not fit for human consumption, be destroyed. Whenever any confiscated article has to be destroyed in conformity with these provisions, it shall be destroyed in the presence of an Executive Magistrate or officer ordering the confiscation or forfeiture, as



the case may be, or in the presence of the Excise Officer not below the rank of a Sub-Inspector;

(5). While making an order of confiscation under sub-section (2), if the District Collector is of the opinion that it is expedient in the public interest to do so, he may order the said property or any part thereof to be sold by public auction or dispose of departmentally and proceeds deposited with the State Government;

(6). The District Collector shall submit a full report of all particulars of confiscation to the Commissioner of Excise within one month of such confiscation.”

7. A bare perusal of Section 58 of the Act, 2016 would show that the confiscating authority has to give a reasonable opportunity to the person concerned, of being heard before passing a confiscation order and while making an order of confiscation, he is to record his satisfaction that it is expedient in the public interest to confiscate the seized property, then only he can order for confiscation and sale of the property in question by public auction. However, we find that admittedly, no satisfaction has been recorded by the confiscating authority in the impugned order dated 19.2.2025 that confiscation of the vehicle of the petitioner is expedient in the public interest and on the contrary, the confiscating authority, by the impugned order dated 19.2.2025 has passed a composite order with regard



to 25 vehicles merely mentioning therein that since liquor has been recovered from all the vehicles, the same are being confiscated. Thus, we find that the Deputy Collector, Land Reforms Department-cum-Presiding Officer, Aurangabad while passing the impugned order dated 19.2.2025 has not only failed to comply with the provisions of Section 58 of the Act, 2016 but the order passed by him is contrary to the provisions, contained therein, hence the order dated 19.2.2025, passed by the Deputy Collector, Land Reforms Department-cum-Presiding Officer, Aurangabad qua the vehicle of the petitioner herein bearing Registration No. JH-03AC-8034, Engine No. XKL6M58365, Chassis No. MA1XK2XKXM5A22334 is quashed. The petitioner is granted liberty to file appropriate petition under Rule 12A of the Bihar Prohibition and Excise (Amendment) Rules, 2023 before the learned Collector, Aurangabad / authorized officer for release of his vehicle upon payment of penalty and in case such an application is filed within a period of three weeks from today, the learned Collector, Aurangabad / authorized officer shall consider the same, in accordance with law and pass a reasoned and a speaking order within a period of four weeks, thereafter.

8. Accordingly, the present writ petition stands disposed off



on the aforesaid terms.

(Mohit Kumar Shah, J)

(Praveen Kumar, J)

Ajay/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	3.2.2026
Transmission Date	NA

