

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1350 of 2026

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Kale Bahadur Chhetri Son of Harilal Chhetri, Resident of Bhurrabari Basti,
Carron Luksan Bazzar Tea Garden, Jalpaiguri (West Bengal), at present
residing at NST Colony, Kohima, Nagaland.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and
Prohibition Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Excise, Bihar, Patna.
3. The Commissioner Excise, Bihar, Patna.
4. The Collector/District Magistrate, Sitamarhi.
5. The Superintendent of Police, Sitamarhi.
6. The Excise Superintendent, Sitamarhi.
7. The Sub Inspector, Excise, Flying Squad, Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Pallav Sharma, Advocate
		Mr. Kuldeep Thakur, Advocate
		Mr. Pulkit Thakur, Advocate
For the Respondent/s	:	Mr. Vikash Kumar, SC-11

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH)

2 09-02-2026 The present petition has been filed for quashing the
auction notice dated 22.01.2022 by which the vehicle of the



petitioner is sought to be auctioned and for further directing the authorities to handover the vehicle to the petitioner upon payment of penalty.

2. The facts of the present case lie in a narrow compass, inasmuch as on 19.07.2021, the SSB personnel posted at Sitamarhi, during the course of search had apprehended one Mahindra Blazo 40 (Container Truck) bearing Registration No. NL01AD1699 and recovered 10.800 liters of illicit Nepali liquor as also arrested one Sunil Kumar. The said Sunil Kumar, who was driving the said vehicle was arrested and then a case was lodged by the Additional Inspector, Prohibition, Sitamarhi by filing an application before the Additional Sessions Judge, 2nd cum Special Judge, Sitamarhi leading to registration of a case bearing G.O. 129 of 2021. Thereafter, confiscation proceedings vide Confiscation Case No. 158/2021 was initiated by the learned Collector, Sitamarhi and vide order dt. 03.09.2021, the said vehicle was directed to be confiscated.

3. The petitioner had then filed an appeal bearing Excise Appeal Case No. 710 of 2021, however the same was dismissed by the learned Excise Commissioner, Patna vide order dated 29.10.2021. The said order dated 29.10.2021 was challenged by the petitioner by filing Excise Revision Case No.



31 of 2022, however the same has also stood dismissed by an order dated 17.02.2022, passed by the learned Additional Chief Secretary, Bihar, Patna. It appears that thereafter, the aforesaid vehicle was put on auction vide notice dated 22.01.2022 and the auction is stated to have been held on 09.2.2022. The petitioner, in the meantime had approached this Court challenging the aforesaid orders dated 03.09.2021, passed by the Ld. District Magistrate, Patna, the order dated 29.10.2021, passed by the Excise Commissioner, Bihar, Patna and the order dt. 17.02.2022 passed by the Ld. Additional Chief Secretary, Excise, Bihar, Patna in Excise Revision Case No. 31 of 2022, however a Co-ordinate Bench of this Court by an order dated 6.5.2022, passed in the writ petition filed by the petitioner, i.e. C.W.J.C. No. 4982 of 2022, had though refrained from interfering with the aforesaid orders passed by various authorities up to the revision stage, nonetheless had granted liberty to the petitioner to avail the remedies of the amended provisions contained in 12 (A) and 57 B of the Bihar Prohibition and Excise (Amendment) Rules, 2022 (hereinafter referred to as the 'Rules, 2022'). Unfortunately, the petitioner having lost from everywhere and the vehicle in question having been auctioned in the meantime, he was not left with the remedy of availing the benefit of the



provisions contained in 12 (A) and 57 B of the Rules, 2022.

4. The learned counsel for the petitioner has though admitted that the petitioner has lost from everywhere up to the revisional stage and the said orders of various authorities have also not been interfered with by a Co-ordinate Bench of this Court in the earlier round of litigation, nonetheless it has been submitted that the vehicle in question ought to be released in favor of the petitioner upon payment of penalty. In this connection, reliance has been placed on a judgment rendered by a Co-ordinate Bench of this Court dated 30.01.2024, passed in C.W.J.C. No. 10227 of 2022 (**Shanti Devi vs. the State of Bihar & Ors.**) to contend that the auction cannot take place during the pendency of revision petition.

5. Per contra, the learned counsel for the State has submitted that the present writ petition is hopelessly barred by limitation on account of delay and laches on the part of the petitioner in approaching this Court after a delay of more than four years inasmuch as the petitioner is seeking to challenge the auction notice dated 22.01.2022 in the year 2026 when the lis in question has already attained finality.

6. We have heard the learned counsel for the parties and gone through the materials on record and find that the order



dated 03.09.2021 passed by the Collector-cum-District Magistrate, Sitamarhi in Excise Confiscation Case No. 158 of 2021 whereby and whereunder the vehicle of the petitioner has stood confiscated, the order dated 29.10.2021 passed in the appeal filed by the petitioner whereby and whereunder the said appeal bearing Excise Appeal Case No. 710 of 2021 has stood dismissed and the order dated 17.02.2022 whereby and whereunder the revision petition filed by the petitioner bearing Excise Revision Case No. 31 of 2022 has also been dismissed have attained finality inasmuch as the petitioner had earlier filed a writ petition bearing C.W.J.C. No. 4982 of 2022, challenging the aforesaid orders passed by various authorities up to the revision stage, however a Co-ordinate Bench of this Court vide order dated 06.05.2022 had refrained from interfering with the same. Now, having lost from everywhere and the vehicle in question having also been auctioned in the meantime, the petitioner has come out with a ploy, in the garb of challenging the auction notice dated 22.01.2022, which is not permissible under the law inasmuch as the consequence of the aforesaid confiscation order dt. 03.9.2021 as upheld by the appellate order dated 29.10.2021 and the revisional order dated 17.02.2022 as also not interfered with by this Court in the earlier round of



litigation is only one, i.e. auction of the vehicle in question, which has already taken place. Therefore, challenge to the auction notice dt. 22.01.2022, by which the vehicle of the petitioner was put on auction, at this juncture is not tenable in the eyes of law, hence the present writ petition is fit to be dismissed being bereft of any merit. As far as the judgment rendered by a Co-ordinate Bench of this Court in the case of **Shanti Devi** (*supra*) is concerned, the same is distinguishable in the facts & circumstances of the present case.

7. Last but not the least, we are of the view that the present writ petition is also barred by the principles of delay and latches inasmuch as the present writ petition has been filed after an inordinate delay of more than 4 years, hence this Court is not under any legal obligation to entertain the writ petition, especially considering the fact that the petitioner has not offered any reason whatsoever, for the enormous delay which has taken place in approaching this Court, thus the present writ petition is fit to be dismissed on this ground as well. We may refer to the well-known maxim-“equity aids the vigilant and not those who slumber on their rights”.

8. Having regard to the facts and circumstances of the case and for the foregoing reasons, we do not find any merit in



the present writ petition. Hence, the same stands dismissed.

(Mohit Kumar Shah, J)

(Alok Kumar Pandey, J)

Nilmani/-

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