IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.344 of 2026

==

Bechu Yadav Son of Chhangur Yadav, Resident of Village-Goi Ward No-01, Chand, P.S.-Chand, District-Kaimur at Bhabua.

... ... Petitioner/s

Versus

1. The State of Bihar through Secretary of the Excise Department, Bihar at Patna.
2. The Excise Commissioner, Bihar, Patna.
3. The District Magistrate, Kaimur at Bhabua.
4. The Superintendent of Police, Kaimur at Bhabua.
5. The Superintendent of Excise, Kaimur at Bhabua.
6. The Investigating Officer of Police Station Chand, District-Kaimur at Bhabua.

... ... Respondent/s

==

Appearance :

For the Petitioner/s : Mr.Dharmendra Kumar Singh, Advocate

For the Respondent/s : Mr. Prabhakar Jha, GP-27
Mr. Umesh Narayan Dubey, AC to GP-27

==

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

6 12-05-2026 Heard learned counsel for the petitioner and learned counsel for the State.

2. Petitioner in this case is aggrieved by and dissatisfied with the order dated 28.01.2025 passed in Excise Appeal Case No.114 of 2024 by which the Commissioner, Excise has, though, interfered with the order of confiscation dated 23.08.2024 passed by the Collector-cum-District Magistrate, Kaimur (Bhabhua) but while

setting aside the order of confiscation, the appellate authority has remanded the matter to the confiscating authority with a direction to pass a fresh order. It is submitted that from the order of the appellate authority, it would appear that he has recorded his opinion that only that part of the house would be liable to be confiscated in which the liquor was stored. Learned counsel submits that the opinion formed by the appellate authority in the impugned order is in the teeth of the Rule 13B of the Bihar Prohibition and Excise Rules, 2021 (as amended uptodate) (hereinafter referred to as the ‘Act of 2021').

3. It is submitted that under Rule 13B, the Collector has to first decide as to whether or not the premises may be released on payment of penalty? It is only when the Collector decides either that the premises cannot be released on payment of penalty or when the owner does not pay the required penalty, confiscation proceeding shall be initiated.

4. Thus, very initiation of the confiscation proceeding would be dependent upon an opinion of the Collector as to whether the premises may be released on

payment of penalty or not.

5. Learned counsel for the State does not contest the aforesaid submission advanced on the strength of Rule 13B of the Rules of 2021. It is however submitted that the petitioner may bring this provision to the notice of the Collector who may consider the same and pass an appropriate order.

6. Having heard learned counsel for the petitioner and the State as also on going through the provisions contained in Rule 13B of the Rules of 2021, we have no iota of doubt that Rule 13B is required to be followed in its terms and spirit. The confiscation of a house or even part thereof has a huge civil consequence, therefore, the legislatures in their wisdom have provided for a provision to impose penalty and only when the owner of the premises is not ready to pay the penalty then a confiscation proceeding may be initiated. In this case, no such procedure has been followed. Moreover, we find that the quantity of liquor is said to be only six liters.

7. Keeping in view the petty quantity of liquor and the fact that the petitioner has already suffered for more

than three years in fighting the confiscation proceeding, we are of the opinion that the impugned order be set aside and the confiscation proceeding be dropped. Accordingly, we set aside the impugned order and direct the Collector, Kaimur at Bhabhua to release the seized premises forthwith. The Confiscation Case No. 18 of 2023 is, accordingly, discharged.

8. This writ application is allowed.

(Rajeev Ranjan Prasad, J)

(Soni Shrivastava, J)

arvind/-

U			