

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2958 of 2026

=====

Rajesh Kumar Yadav, Son of Mahendra Ray, resident of village- Bayadih,
Raghunathpur, P.S.- Saraiya, District- Muzaffarpur, State - Bihar.

... .. Petitioner

Versus

1. The State of Bihar through the Principle Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Principle Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
3. The Collector-cum-District Magistrate, Gopalganj.
4. The Superintendent of Police, Gopalganj.
5. The Superintendent of Excise, Gopalganj.
6. The Station House Officer of Kuchaikot P.S., District- Gopalganj.

... .. Respondents

=====

Appearance :

For the Petitioner : Mr. Hemant Ray, Advocate
For the State : Mr. Sudhir Kumar Singh, AC to SC-23

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE KUMAR MANISH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 17-06-2026

Heard learned counsel for the petitioner and learned
A.C. to S.C.-23 for the State.

2. We have also heard the Superintendent of Police,
Gopalganj and the Sub-Inspector of Police Surendra Rai.

3. The petitioner in the present writ application is
seeking the following reliefs :-

“(a) To issue an appropriate writ/ order/ direction in
the nature of Mandamus directing the respondent
Collector to release Truck bearing Registration No.
WB41F0282, Chasis No. MAT448030BIC08240,



Engine number is not clear which has been illegally seized by the A.S.I. Surendra Ray in Kuchaikot P.S. Case No. 344 of 2024, dated 14.08.2024, registered for the offences under sections 47, 52 of the Bihar Excise Prohibition Amendment Act. But in the F.I.R. and search and seizure list, it has been stated by the I.O. that the Engine Number of the seized truck is not clear but the Engine number of the seized truck is 11C63106329.

(b) To grant any other relief or reliefs for which the petitioner is found to be entitled in the facts and circumstances of the case.”

4. It is the case of the petitioner that on 14.08.2024 at about 9:45 hours A.S.I., Surendra Rai submitted a written report before the Officer Incharge at Kochaikote Police Station in which he alleged as under:-

“On secret information police reached at NH-27 and in front of Balathri Check Post in course of checking at about 09:45 PM, two persons in the truck bearing Registration No. WB41F0282 came and on seeing the signal of police to stop, the driver of the truck stopped the truck, and another person tried to flee away after leaving the truck behind, both disclosed their names as Randhir Kumar (Driver) and Rajesh Kumar Yadav (petitioner). In the meantime, people assembled and police requested them to become independent witness but no one got ready to become independent witness. Thereafter, from the raiding



team (1) BHG221502 Shatrughan Kumar Shah (2) BHG221455 Pramod Kumar Singh were made independent witnesses. On search of the said truck a foul smell like liquor was coming from the box made in the cabin of the seized truck bearing Registration No. WB41F0282, Chasis No. MAT448030BIC08240, Engine Numberis not clear and both the accused persons have confessed during interrogation that they had gone with the liquor and had returned after selling it and were going to bring more liquor. Mobile Phones of both the accused persons were seized. Signature of independent witnesses were taken on the seizure list and photocopy was handed over to both the accused persons. On enquiry, Rajesh Kumar Yadav disclosed that the seized truck is in his name. Both the accused persons have confessed before police that the liquor had been ordered by Sonu Kumar and he had ordered them to bring liquor.”

5. On the basis of the statement of S.I. Surendra Rai, F.I.R. giving rise to Kochaikote P.S. Case No. 344 of 2024 dated 14.08.2024 was registered under Sections 47 and 52 of the Bihar Prohibition and Excise Act, 2016 (as amended up-to-date) (hereinafter referred to as ‘the Act of 2016’). It is submitted that the petitioner purchased the truck in question from an authorized dealer. He has enclosed the certificate of registration/ ownership of



the seized truck as Annexure '2' of the writ application. It is a commercial vehicle of public utility. It is stated that the vehicle in question has been seized and is lying stranded in the premises of the police station. There is every possibility of pilferage of its parts and accessories and because of its exposure to sun, heat and rain, it is losing its road-worthiness.

6. Earlier this Court invited a counter affidavit from the State respondent. A counter affidavit has been filed on behalf of Respondent No. 4 which is sworn by Dy.S.P. Traffic, Gopalganj. The ownership of the vehicle is not disputed. The counter affidavit has, however, raised a submission that the petitioner has got an alternative remedy as he can approach the competent criminal court, i.e., the court of learned Special Judge, Excise, Gopalganj for release of his vehicle. In paragraph '6' of the counter affidavit, Respondent No. 4 has made a statement that it is not a case of seizure of vehicle upon recovery of prohibited liquor and thus, proposal to confiscate the vehicle is not to be initiated in this case.

7. In fact, after noticing the statement made in paragraph '6' of the counter affidavit, we passed the order dated 16.06.2026 which is being reproduced hereunder for a ready reference:-

"Prima-facie, we find from the pleadings available on the record that the seizure of the vehicle itself is illegal and it shows the high-handedness of the police in subjecting the vehicle in question to seizure under the



provisions of the Bihar Prohibition and Excise Act, 2016. We say so for the reasons which may be found in the FIR itself which is based on the self-statement of the S.I. Surendra Rai posted in Kuchaikot Police Station in the district of Gopalganj at the relevant time. The vehicle in question has been seized and is lying under seizure for one year ten months on the allegation that in the vehicle there was a secret cabin and the police officer smelled something like liquor. Admitted case is that no liquor was under transportation in the vehicle when it was intercepted and searched.

2. The counter affidavit filed on behalf of Respondent No. 4 states in paragraph '6' as under:-

“6. That it is not a case of seizure of vehicle upon recovery of prohibited liquor and thus proposal to confiscate the vehicle is not to be initiated in this case.”

3. This Court being a Constitutional Court having come across the misuse and excessive use of power by the police officers which resulted in causing harassment to a citizen of the country cannot remain oblivious to the hardships faced by the citizen.

4. We, therefore, while directing release of the vehicle in question propose to impose a cost upon the State with a direction to the Superintendent of Police, Gopalganj to take appropriate action in the administrative side against the erring officer whose high-handedness has resulted in this hardship to the petitioner.

5. Before we pass any order, we would like to interact with the Superintendent of Police, Gopalganj and the S.I. Surendra Rai.



6. The Superintendent of Police, Gopalganj and the S.I. Surendra Rai shall be present online tomorrow before this Court at 10:30 AM. Link of this Court shall be made available to them by learned AC to SC-23 for the State.

7. List this case tomorrow i.e. on 17.06.2026 at 10:30 AM.”

8. Today, when the writ application was taken up for consideration in pre-luncheon session, we noticed that the Superintendent of Police, Gopalganj was present online but the S.I. Surendra Rai was not present. A vague plea was taken by the Additional S.H.O. of the Dinara Police Station where the S.I. Surendra Rai is presently posted that his mobile phone was coming switched off and he was traceless. Only after we took a serious view of the matter, S.I. Surendra Rai appeared before this Court through online mode at 2:15 P.M. i.e. the Session after luncheon interval.

9. In course of our interaction with the Superintendent of Police, Gopalganj, we made a query as to whether he had gone through our order dated 16.06.2026 and what is his opinion with regard to the seizure of the vehicle. The Superintendent of Police made a statement that he had gone through the order of this Court and was taking action in administrative side against who had seized the vehicle.



10. In course of interaction with S.I. Surendra Rai, this Court put a question to him as to whether he has gone through the provisions of the Act of 2016. His immediate answer to the query of this Court came in negative. He made a statement that he has not gone through the provisions, however, we continued with our interactions and came to know that he had conducted the investigation in at least 40 Excise cases in Kochaikot police station as informed to this Court and is presently in charge of six Excise cases in the Dinara Police station. The S.I. Surendra Rai sensed the trouble and changed his statement saying that he has read the law.

11. In the facts of the present case, it is admitted that the vehicle in question was not transporting any liquor. The present case has been registered under Sections 47 and 52 of the Act of 2016, therefore, we think it just and proper to reproduce both the provisions hereunder for a ready reference:-

“47. Penalty for allowing premises, etc., to be used for commission of an offence. - Whoever, whether being a licensee under this Act or otherwise, and having the control or use of any house, room, enclosure, space, animal or conveyance, knowingly permits it to be used for commission by any other person of an offence punishable under any provision of this Act, shall be punishable in the same manner as if he had himself committed the said offence.



52. Penalty for offences not otherwise provided for.

– Whoever does any act in contravention of any of the provisions of this Act or any rule or order made thereunder and punishment for which has not been otherwise provided for such contravention, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to seven years or with fine which shall not be less than one lakh rupees but which may extend to ten lakh rupees or both.”

12. On a bare reading of Sections 47 and 52 of the Act of 2016, we are of the considered opinion that by no stretch of imagination, these two provisions permit/empower a police officer to seize a vehicle even as no liquor is found under transportation on the said vehicle. A self-statement of the police officer that one of the persons on being apprehended by police disclosed that he had sold liquor and was going to bring liquor cannot be a legal and valid ground to seize a vehicle. Further, self-statement that the police officer smelled something like liquor is also not a lawful ground to seize a vehicle. Such fanciful self-statement alone by S.I. Surendra Rai has been the basis of seizure of the vehicle in question.

13. The Act of 2016 provides for confiscation of seized items and the things or the premises which are liable to be released upon penalty.



14. Section 56 and Section 57B of the Act of 2016 are extracted hereunder:-

“[56. Confiscation of Seized Items. – (1)

Notwithstanding anything contained in Section 57B, whenever an offence punishable under this Act, is committed, the Collector or an officer authorized by him may confiscate such items based on the report of the investigating officer.

(2) Such items may include -

- (i) any premises or part thereof;
- (ii) any animal, vehicle, vessel or conveyance;
- (iii) any liquor or intoxicant;
- (iv) any other item having bearing with the case;

Provided, where things as mentioned in Section 57 are to be destroyed, then the Collector or an officer authorized by him need not confiscate the same before their destruction.

(3) The State Government may issue necessary direction, guidelines, regulations and instructions with respect to the mode and manner of search, seizure, destruction and confiscation.]

¹[57B. Things or premises liable to be released upon penalty.- (1) Any animal, vehicle, vessel or other conveyance used for committing any offence punishable under this Act that has been seized by any police Officer or Excise Officer may be released by the Collector upon payment of such penalty as may be notified by the State Government.

4. Subs. by Amdt. Act 3 of 2022, vide Sec. 7, (w.e.f. 1.4.2022).

1. Subs. by Amdt. Act 3 of 2022, vide Sec. 8, (w.e.f. 1.4.2022).



(2) Any premises or part thereof used for committing any offence punishable under this Act that has been seized by any police Officer or Excise Officer may be released by the Collector upon payment of such penalty as may be notified by the State Government.

(3) If the person concerned does not pay the penalty, then the Collector shall proceed to confiscate the said animal, vehicle, vessel or other conveyance and premises as per section -58.

Explanation 1:- It shall not be a right of the accused to get his conveyance, item or premises released upon payment of the required penalty. The Collector, based upon a report by a police officer or an excise officer, may, for reasons to be recorded in writing, still refuse to release the said conveyance, item or premises and proceed ahead with confiscation and auction/destruction.

Explanation 2:- The Collector shall, from the date of this Amendment coming into force, close the on-going confiscation proceedings if the person concerned pays the penalty as notified and release such vehicle, conveyance or premises.

Explanation 3:- Such release shall not affect the outcome of trial, if any, before the Special Court.]”

15. After noticing the aforesaid provisions of the Act of 2016, we remind ourselves of the statements made in paragraph ‘6’ of the counter affidavit wherein the Respondent No. 4 has gone on the record to say that it is not a case of seizure of vehicle upon



recovery of prohibited liquor. S.I. Surendra Rai says that he had seized the vehicle because he smelled something like liquor in the secret cabin in the vehicle. The imagination and power to smell led to the seizure of the vehicle. It is evident that he has been empowered as a police officer to seize a vehicle if it is found to be involved in the commission of offence under the Act of 2016 but he had not read the law and was not aware as to under what circumstances a vehicle may be seized for the offence under the Act of 2016.

16. This Court is of the considered opinion that the Police officer S.I. Surendra Rai seized the vehicle without being satisfied with the requirement of law. He exercised his police power unreasonably, capriciously and arbitrarily as a result of this misuse of power, the vehicle in question remained under seizure for one year ten months approximately and caused harassment and hardships to a citizen of the country.

17. This Court had occasion to consider and question as to who would be responsible to pay the cost and compensation of a citizen who has suffered hardships because of the misuse of power by an Executive of the State. If the State is to be saddled with the cost and compensation then in such circumstance who should ultimately pay the amount. This Court has in the case of **K.K.**



Pathak @ Keshav Kumar Pathak versus Ravi Shankar Prasad and Others reported in **2019 (1) PLJR 1051** considered catena of judgments of the Hon'ble Supreme Court and came to the following conclusions:-

“11. This Court would reiterate the observations of the Hon'ble Apex Court in one of its judicial pronouncements in the case of **Lucknow Development Authority vs. M.K. Gupta** reported in **1994 (1) SCC 243** observed in Paragraph 11 as under:-

“11.....Public administration, no doubt involves a vast amount of administrative discretion which shields the action of administrative authority. But where it is found that the exercise of discretion was malafide and the complainant is entitled to compensation for mental and physical harassment then the officer can no more claim to be under protective cover.....”

12. In the case of **Delhi Airtech Services Private Limited and Anr. Vs. State of Uttar Pradesh & Anr.** Reported in **2011 (9) SCC 354** observed in Paragraph 215 as under:-

“215.....The principles of public accountability and transparency in State action are applicable to cases of executive or statutory exercise of power, besides requiring that such actions also not lack bona fides. All these principles enunciated by the Court over a passage of time clearly mandate that public



officers are answerable for both their inaction and irresponsible actions. If what ought to have been done is not done, responsibility should be fixed on the erring officers; then alone, the real public purpose of an answerable administration would be satisfied.”

13. Further Paragraph 218 of the Judgment in **Delhi Airtech Services Private Limited** Reported in **2011 (9) SCC 354** reads as under:-

“218. Principles of public accountability are applicable to such officers/officials with all their rigour. Greater the power to decide, higher is the responsibility to be just and fair. The dimensions of administrative law permit judicial intervention in decisions, though of administrative nature, which are ex facie discriminatory. The adverse impact of lack of probity in discharge of public duties can result in varied defects, not only in the decision making process but in the final decision as well. Every officer in the hierarchy of the State, by virtue of his being “public officer” or “public servant” is accountable for his decisions to the public as well as to the State. This concept of dual responsibility should be applied with its rigours in the larger public interest and for proper governance.”

14. This Court has given its observation by which liberty has been granted to the State to recover the cost from the then Principal Secretary (the petitioner) keeping in mind that State is custodian of public money and such public money if are being spent by



way of cost to the writ petitioner(s) who had to rush to this Court due to a whimsical action of lodging of F.I.R against them on the direction of an Officer of the State, the same is liable to be recovered. Other directions or observations to the State and for the writ petitioners are duly in tune with the principles laid down by Hon'ble Supreme Court. This however, goes without saying that in the matter of taking action(s) which have been directed/observed and liberty has been granted to the State, the State shall follow the principles of natural justice.”

18. The judgment of this Court was though challenged before the Hon'ble Supreme Court in SLP (Crl) No. 003566/ 2019 but the same was not interfered with.

19. This is a case in which how the Act of 2016 has been understood by a police officer and its implementation has been done by the authorities empowered under the Act of 2016 is apparent on the face of it. We cannot remain oblivious to the manner in which the police officer indulged in the seizure of the vehicle causing immense hardships to the petitioner. A vehicle such as a truck engaged in transportation as a commercial vehicle has remained under seizure for one year ten months. It is admitted by the respondent that the vehicle was not carrying prohibited liquor.



20. In the facts of the present case, we are of the considered opinion that the petitioner deserves cost and compensation for the unlawful seizure of the vehicle. We have heard S.I. Surendra Rai and found that he had no plausible explanation, save and except to repeat his self-statement. We assess the cost of litigation at Rs.15,000/- (Rupees Fifteen Thousand Only/-) and the vehicle being a commercial vehicle, the petitioner deserves compensation for the unlawful seizure of the vehicle. We direct the State (Respondent No. 1) to pay a sum of Rs. 2 Lakhs/- to the petitioner within a period of six weeks from today. In terms of the judgments referred hereinabove, the State would realise the cost and compensation amount from the erring official in accordance with law.

21. We direct the Superintendent of Police, Gopalganj to get verified the present status of the vehicle standing in the premises of the police station at Kochaikot and find out that how many parts of the truck have been pilferaged/ otherwise damaged during the period of one year ten months. If it is found that damage has been done or the parts of the truck have been pilferaged/ stolen away from the premises of the police station, it will be his responsibility to fix the liability upon the police officers who were liable to keep the vehicle safely in the police station premises. The



petitioner will be at liberty to realise the cost of such parts of the vehicle and the damage in accordance with law. The vehicle shall be released forthwith in favour of the petitioner.

22. This writ application is allowed to the extent indicated hereinabove.

(Rajeev Ranjan Prasad, J)

(Kumar Manish, J)

SUSHMA2/-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	19.06.2026
Transmission Date	

