

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.367 of 2022

Arising Out of PS. Case No.-797 Year-2019 Thana- JAHANABAD District- Jehanabad

Neelam Devi Wife of Rajesh Sharma Daughter of Radhe Shyam Singh,
Resident of Village - Usari, P.S.- Rampur Chauram, District - Arwal Presently
Residing at Mohalla - Raja Bazar, Hanuman Nagar, P.S.- Jehanabad, District -
Jehanabad.

... .. Petitioner/s

Versus

1. The State of Bihar, Through the Principal Secretary, Department of Home (Police) Government of Bihar
2. The Principal Secretary, Department of Excise, Government of Bihar, Patna. Bihar
3. The Collector, Jehanabad. Bihar
4. The Superintendent of Police, Jehanabad. Bihar
5. The Officer in-charge, Jehanabad Police Station District - Jehanabad. Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Anunay Shahi, Advocate Mr. Shivendra Prasad, Advocate Mr. Sudeep Kumar, Advocate Ms. Priya Ranjan, Advocate Mr. Mukesh Kumar, Advocate
For the State	:	Mr. Vivek Prasad, GP-7

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 13-01-2026

Counter affidavit has been filed on behalf of respondent nos. 1 to 5 which is taken on record.

2. Heard learned counsel for the parties.

3. The instant writ petition has been filed on behalf of the petitioner for issuance of an appropriate writ/writs, order/orders, direction/directions to the respondent authorities to



unseal/unlock the house of the petitioner which has been locked/sealed without making aware the petitioner any reason for locking the same on 31.01.2022.

4. Briefly stated, the facts of the case are that Jehanabad P.S. Case No. 797 of 2019, dated 06.10.2019 was instituted for the offences under Section 30(a) of Bihar Prohibition and Excise Act (Amendment) Act, 2018 with allegation that son of the petitioner has kept India made foreign liquor in his house and selling the same. A raid was conducted and son of the petitioner was apprehended. The house of the petitioner was searched and recovery of total 8.25 litres of Indian made foreign liquor was made from the house of the petitioner. It further transpires the part of the house of the petitioner was sealed on 31.01.2022 and the petitioner was told verbally that as the recovery of illicit was made from the house of the petitioner earlier, her house was being sealed.

5. Learned counsel for the petitioner submits that the land on which house was constructed subsequently was purchased by the petitioner through registered sale deed and the land has also mutated in the name of the petitioner. The petitioner was not made accused in Jehanabad P.S. Case No. 797 of 2019. No presumption was ever raised about the involvement



of the petitioner and the house of the petitioner was not sealed when allegedly the recovery of illicit liquor was made from it. But all of a sudden, the police came and sealed the house of the petitioner after more than two years of the occurrence. Learned counsel further submits that prior to sealing, the investigation was closed in connection with Jehanabad P.S. Case No. 797 of 2019. Therefore, the subsequent sealing of the house of the petitioner is without authority of law as the police has not reopened the investigation. Hence, the action of the police is illegal, malicious, arbitrary and malafide. Learned counsel further submits that the part of the house has remained sealed for more than four years, therefore, the authorities are liable to pay compensation to the petitioner. Thus, learned counsel prays for unsealing of the house of the petitioner and award of compensation.

6. Learned counsel appearing on behalf of State-respondents submits that there is no illegality in the action of the police officials. Section 56 of Bihar Prohibition and Excise Act (in short 'the Act') provides for confiscation of any premises or part thereof that may have been used for storing or manufacturing any liquor or intoxicant or for committing any other offence under this Act. Further, under Section 62 of the



Act, premises liable to the sealed has been described. As recovery of illicit liquor has been made from the premises of the petitioner, the same was liable to be sealed under Section 62 of the Act. Learned counsel further submits that the sealing is precursor of the confiscation proceeding. Learned counsel further submits though there is delay of more than two years in sealing the premises, the same has been done as per the statutory provision though under erroneous understanding of the scope of Section 62 of the Act. Learned counsel refers to the case of *State of Gujarat Vs. Kishanbhai*, (2014) 5 SCC 108, wherein the Hon'ble Supreme Court observed that errors in procedure, when undertaken bonafide, do not amount to malice, especially in the enforcement of social welfare legislation. Learned counsel very fairly submits that in view of the legal position and observations made by this Court from time to time, the authorities stand ready to unseal the premises subject to appropriate safeguards. However, learned counsel vehemently contends that the allegation about action of police illegal, malicious, arbitrary and malafide are not correct. Learned counsel further submits that there is no question of grant of any compensation since delay has occurred due to subsequent COVID Pandemic and Hon'ble Supreme Court in *Suo Motu*



Writ Petition (Civil) No. 3 of 2020 has waived the limitation period during the period 15.03.2020 till 28.02.2022. Learned counsel further submits that only a part of the house of the petitioner was sealed from where the recovery has been made and not whole of the house and so the petitioner has not suffered any loss and State is not liable to pay any compensation.

7. I have given my thoughtful consideration to the rival submission of the parties. Section 62 of Bihar Prohibition and Excise Act provides as under:-

"62. Premises liable to the sealed.-- *If it comes to the notice of any excise officer or any police officer, not below the rank of a Sub Inspector, that any liquor or intoxicant has been found at a particular premises or a particular premises or a part thereof is or has been used for committing any offence under this Act, he may immediately seal the premises and send a report to the Collector for the confiscation of the same.*

Provided that if the said premises are temporary structures which cannot be effectively sealed, then the excise officer or the police officer, with the order of the Collector, may demolish such temporary structures."

8. Therefore, it is much apparent that the sealing



was required to be done immediately after recovery of illicit liquor from the house of the petitioner. If the house or part of it was not sealed immediately when the raid was conducted and recovery was made, the same cannot be done after two years. Subsequent enactment under Excise Rules which came into effect in the year 2022 also provides that sealing should be done immediately and within 24 hours. Therefore, it is clear position of law that the sealing should have been done then and there when the recovery was made and the authorities could not waited for such a long time But, the authorities waited for more than two years and thereafter, moved for sealing of the house of the petitioner which cannot be said to be sanctioned by any statutory provision. If a statute provides for doing a thing in a particular manner, the said thing is to be done in the same manner and not at all. This is clear proposition of law as enunciated by the Hon'ble Supreme Court in the case of *State of Punjab Vs. Davinder Pal Singh Bhullar & Ors.*, (2011) 14 SCC 770. Therefore, on this sole ground, the act of the respondent authorities for sealing the premises of the petitioner cannot be sustained. Subsequent fact also supports the contention of the petitioner about sealing not being legal as charge sheet has been submitted and investigation has been



completed in this case. Thereafter, the police authorities became *functus officio*. Unless further investigation was ordered in the case or there is any order by any other court, the authorities acted without sanction of law. Moreover, no such pleading has come on record.

9. So far as submission of learned counsel for the State-respondents that the sealing was done subsequently due to intervening COVID Pandemic is concerned, this argument is fallacious because the raid was conducted on 06.10.2019 and the COVID Pandemic started in year 2020 which has been taken note by the Hon'ble Supreme Court in *Suo Motu Writ Petition (Civil) No. 3 of 2020*. Therefore, not taking any action from October, 2019 till January, 2022 is without any explanation or justification. Therefore, the submission of learned counsel for the State is rejected.

10. Therefore, in the light of aforesaid discussion, I am of the considered opinion that the action of the State authorities is beyond the mandate of the law.

11. Having regard to the aforesaid facts and circumstances, the authorities are directed to immediately unseal the house of the petitioner which has been sealed on 31.01.2022 subject to the satisfaction of learned trial court. For putting the



petitioner to undue harassment, cost of Rs.50,000/- is imposed upon the State authorities.

12. Accordingly, the present petition stands allowed.

(Arun Kumar Jha, J)

DKS/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.01.2026
Transmission Date	13.01.2026

