

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5246 of 2025

Most. Malti Devi Wife of Late Anil Kumar Singh, resident of Village - Yarpur
Rajputana, Police Station - Gardanibagh, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Prohibition Excise and Registration Department, Government of Bihar, Patna.
2. The Additional Commissioner, Prohibition Excise and Registration Department (Headquarter), Government of Bihar, Patna.
3. The Excise Director, Excise Department, Government of Bihar, Patna.
4. The Excise Commissioner, Prohibition, Excise and Registration Department, Patna.
5. The District Magistrate-cum-District Collector, Patna.
6. The Superintendent of Police, Patna.
7. The Officer Incharge, Shastri Nagar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Dr. Satyendra Kumar Srivastava, Adv.
For the Respondent/s : Mr.Dhirendra Kumar, AC to GP 5

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
C.A.V. JUDGMENT
(Per: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY)
Date : 12-08-2025

This writ petition has been filed by the petitioner against the order dated 02.09.2024 passed by the Secretary, Prohibition Excise and Registration Department, Govt. of Bihar, Patna (respondent no.1) in Excise Revision Case No. 17 of 2024 rejecting the revision filed by the petitioner against the order dated 19.06.2023 passed by Excise Commissioner, Bihar, Patna in Excise Appeal Case No. 56 of 2023 affirming the order dated



14.01.2023 passed by the District Collector, Patna in Excise Confiscation Case No. 3765 of 2022-23.

2. By filing the present writ petition, the petitioner has prayed for the following relief(s):-

“(i) For issuance of appropriate writ/writs, direction/directions or order/orders especially in the nature of Certiorari the order dated 02.09.2024 passed in Excise Revision Case No.17/14 passed by Additional Commissioner of Excise (Headquarter) Prohibition Excise, Patna, Bihar (Respondent No.2) arising in with Excise Appeal Case No.56/2023 passed order dated 13.06.2023 by Secretary of Commissioner Excise Court, Patna which arising out specially the order dated 14.01.2023 passed in Excise Confiscation Case No.3765 of 2022-23 by the District Collector, Patna in directing to operation for the confiscation order whereby and whereunder the property has been seized in connection with Excise Case bearing Shastri Nagar P.S. Case No.586/2022 against the premises in question of the owner of the land as well as the shop of the petitioner.

(ii) For the issuance of appropriate writ in the nature of Certiorari especially quashing the order dated 14.01.2023 passed by the Collector, Patna (Respondent No.5) in Excise Confiscation Case 2.23. No.3765/2022; whereby and whereunder the



property of the petitioner was ordered to be confiscated in connection with Shastrinagar P.S. Case No. 586/2022 as being owner of the property and it was her responsibility to ensure that her premises an rental shop is not being used for any unauthorized business.

(iii) For that the petitioner also further prays for issuance of appropriate writ/writs for direction or order/orders especially in the nature of mandamus directing the respondents to release the shop having been constructed upon the ancestral property appertaining under the Boundary of North- Baldeo Bhawan, South office of Nawal Bihar, East- Akilpur Kothi, West- Mohit Narayan Path. Such belong to covered of Nagar Nigam, Patna accordingly pay the rent of Circle-249 the father-in-law which under the Shastrinagar Police Station, Patna in favour of the petitioner which was confiscated by respondents in connection with Shastrinagar P.S. Case No.586/2022 dated 09.09.2022 registered under sections 30(a)/32(ii)/36/42(ii) of Bihar Prohibition & Excise (Amendment) Act 2022 as the petitioner is a lawful owner of Rental Shop as tenant namely Rabi Kumar was open the shop in rented building of petitioner on rent as (New Star Communication) had leased of rent in pursuant to an agreement dated 01.03.2013 executed by the Brother-in-law (Sunil Kumar Singh) in that the property under possession of petition after divide



the share from Brother-in-law (Bhaisur).

And

For any other relief/reliefs which the Hon'ble Court may be grant in general interest, that may be deemed appropriate and necessary in this case.”

3. Briefly stated the facts of the case is that there is alleged recovery of 23.59 liters of illicit liquor from the shop run by one Rabi Kumar. On the basis of aforesaid fact, Shastri Nagar P.S. Case No. 586 of 2022 was registered under Sections 30(a)/32(ii)/36/42(ii) of the Bihar Prohibition and Excise (Amendment) Act, 2022.

4. Learned counsel for the petitioner submitted that the brother-in-law of the petitioner namely, Sunil Kumar Singh entered into an agreement of rent with said Rabi Kumar on 01.03.2013 (Annexure-P/2) with security cost of Rs. 55,000/- per month rent and in light of the same said Rabi Kumar has been carrying business in Shop No. 2 as “New Communication Shop”. It has been submitted that vide letter no. 9041 dated 05.11.2022 the letter communicated by Senior Superintendent of Police in regard to Shastrinagar P.S. Case No. 586 of 2022 dated 09.09.2022 the country made liquor had been recovered hence the New Star Communication Shop had been sealed and recommended for confiscation before District Collector, Patna.



Notice (Annexure-P/3) was issued against owner of the property Late Rameshwar Prasad Singh and his legal dependent by memo no. 1530 dated 14.11.2022 for filing show cause. In response to the said notice, petitioner appeared in the confiscation case and submitted that her father-in-law died on 08.03.1993 and her husband died on 09.02.2019. It has been submitted that shop in question was rented out to one Rabi Kumar and the said premise where the shop in question is situated has been misused. It has been submitted that petitioner is living alone at Gardanibagh Rajputana, Patna which is 10 Kms. away from the shop in question and after death of her husband the renter has been paying rent through brother-in-law and she has no role at all in the alleged illegal activity. It has been submitted that the premises of the petitioner was confiscated and sealed in the light of the order dated 14.01.2023 passed by the District Collector, Patna (respondent no. 5) in Confiscation Case No. 3765 of 2022-23. Against the aforesaid order of confiscation, petitioner filed appeal bearing Excise Appeal Case No. 56 of 2023 before the appellate authority i.e. Excise Commissioner, Bihar, Patna and the appellate authority without taking into consideration the defence of the petitioner passed rejected the appeal filed by the petitioner. Being



aggrieved by the aforesaid orders, petitioner filed revision before the Secretary, Prohibition, Excise and Registration Department, Govt. of Bihar, Patna vide Excise Revision Case No. 17 of 2024, which has been rejected by order dated 02.09.2024 without taking into account the materials available on record. It has been submitted that petitioner being a lady and the alleged shop was on the ancestral property of the petitioner and the affair of the shop in question was managed by the brother-in-law on the basis of the rent agreement and petitioner was not in direct touch with the renter who has been apprehended from the shop. There is nothing on record which goes to show that petitioner is in any way connected with the illegal activities under the Excise Act. The person who has been apprehended from the shop is the renter and the said shop is on the ancestral property of the petitioner. It is submitted that in all the proceedings before the confiscating authority, appellate authority and the revisional authority the reasonable defence of the petitioner has not been taken into account. Hence, petitioner has no other efficacious remedy rather to approach this Court by filing the present writ petition.

6. Per contra, learned counsel appearing for the respondents submitted that there is recovery of illicit liquor



from the shop situated in the premises of the petitioner and petitioner being the owner of the property in question had the responsibility to ensure her the shop in question is not being misused for any unauthorized business. It has been submitted that though there is an agreement for rent between Sunil Kumar Singh, the brother-in-law of the petitioner and the tenant Rabi Kumar, but the said property belongs to the petitioner. Learned counsel submitted that in the explanation to the show cause the petitioner has failed to produce any evidence which goes to suggest that the shop was not used for storage of illicit liquor. In this way, the orders have been passed by the confiscation authority, appellate authority and the revisional authority on the basis of material available on the record and therefore, no interference is needed. In light of the aforesaid facts and circumstances, the order passed by the confiscating authority, the appellate authority and the revisional authority have been passed on basis of the material available on record and are proper and justified and hence requires no interference.

7. Having gone through the material available on record, it is crystal clear that there is alleged recovery of 23.59 liters of illicit liquor from the shop in question and one person was apprehended. Petitioner being a lady was not directly



concerned with the affairs of the shop which was run by the renter on the ancestral property of the petitioner in the light of rent agreement between the brother-in-law of the petitioner and the renter Rabi Kumar and the affairs of rent was being managed by the brother-in-law but at the same time the petitioner failed to monitor the activities of the shop from where illicit liquor was recovered. However, having gone through the materials available on record, for recovery of 23.59 liters of illicit liquor from the shop in question, confiscation of the whole property is disproportionate to the offence committed and conscious of this Court does not allow confiscation of whole property.

8. Having regard to the fact that petitioner is a lady and she has no direct concern with the day to day affairs of the shop in question which was let out on rent as per agreement contained in Annexure-P/2, we are exercising extra-ordinary jurisdiction under Article 226 of the Constitution of India.

9. Moreover, while dealing with similar issue, as is involved in the present writ petition, a Division Bench of this Court by judgment dated 14.09.2023 passed in C.W.J.C. No. 17894 of 2022 (*Sunita Sinha Vs. State of Bihar & Ors.*) directed for release of the godown forthwith in favour of the



landlord. The present case is squarely covered by the aforesaid judgment passed in the case of *Sunita Sinha (supra)*.

8. Keeping in view the discussions made above, the orders dated 14.01.2023 (Annexure-P/4), 19.06.2023 (Annexure-P/5) and 02.09.2024 (Annexure-P/6) passed by the confiscation authority, appellate authority and the revisional authority respectively are, hereby, quashed. The respondent authorities are directed to release the shop/property in favour of the petitioner forthwith.

10. The writ petition stands allowed.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

mcverma/-

AFR/NAFR	AFR
CAV DATE	05.08.2025
Uploading Date	12.08.2025
Transmission Date	NA

