

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13123 of 2025

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Sushil Kumar Singh, Son of Krishananadan Prasad Singh @ Krishanandan Prasad, Resident of Village- Manika Urf Bishunpur Chand, Police Station - Mushahari, District – Muzaffarpur Petitioner

Versus

1. The State of Bihar through the Principal Secretary Excise Department, New Secretariat, Patna.
2. The Principal Secretary Excise Department, Government of Bihar, New Secretariat, Patna.
3. The Secretary (Liquor Prohibition and Excise), Government of Bihar, New Secretariat, Patna.
4. The Excise Commissioner, Government of Bihar, New Secretariat, Patna.
5. The Collector-Cum-District Magistrate, Muzaffarpur.
6. The Superintendent of Police, Muzaffarpur.
7. The Excise Superintendent, Muzaffarpur.
8. The Officer-in-Charge, Sakra Police Station, District - Muzaffarpur.
9. Bhola Sah, S/o - Anandi Sah, Resident of Village - Chausima, P.S. - Sakra, District – Muzaffarpur.
10. The E.O.U. through S.P., E.O.U, Patna.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Hari Kishore Thakur, Advocate Mr. Aditya Dev, Advocate
For the State	:	Mr. Sumant Kumar Singh, AC to GA-2
For the Respondent No.9:		Mr. Alok Kumar Alok, Advocate Mr. Vivek Kumar Pandey, Advocate
For the E.O.U.	:	Mr. V.N.P. Sinha, Sr. Advocate Mr. Vijay Anand, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and

HONOURABLE MR. JUSTICE SOURENDRA PANDEY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 18-12-2025

We have heard learned counsel for the petitioner,

learned AC to GA-2 to the State and learned counsel for

respondent No. 9.



2. Pursuant to the order dated 14.11.2025, the ADM, Muzaffarpur, Assistant Commissioner (Excise), Muzaffarpur and the Motor Vehicle Inspector, Muzaffarpur (*in short the “MVI, Muzaffarpur”*) are present in person with the records.

3. This Court has interacted with all the officers in course of hearing.

Reliefs Prayed

4. (i) The present writ application has been filed seeking a writ in nature of a writ of *certiorari* to quash and cancel the auction sale of Mahindra Scorpio S9 vehicle, bearing Registration No. BR06PE-1648, Chasis No. MAITA2WR2J2L10413 and Engine No. WRJ4L10413, which has been auctioned on 31.03.2023 *vide* Memo No. 939 dated 08.04.2023 (Annexure-P/4). The petitioner has alternatively prayed for award of a compensation to the tune of Rs. 12,12,517/-, which was the insured value of the vehicle at the time of seizure.

(ii) The order passed by the Revisional Authority on 05.06.2025 in Excise Revision Case No. 11 of 2025 (Annexure-P/9) by which the Secretary (Liquor Prohibition and Excise), Govt. of Bihar, Patna has refused to interfere with the order of confiscation of the vehicle and the appellate order has also been



challenged.

(iii) In paragraph 1(iv), the petitioner has specifically prayed for setting up an enquiry into the affairs of the Excise Department, Muzaffarpur in the matter of auction of vehicle, wherein a racket is operating and only few number of people get a chance to participate in the auction, under hand dealing is allegedly rampant. The petitioner has prayed for appropriate direction for action against the culprit persons/employees.

Facts in brief

5. The petitioner is the owner of Mahindra Scorpio S9 vehicle of the description stated hereinabove. The vehicle has been seized in connection with Sakra P.S. Case No. 722 of 2020 under Sections 414/34 of the Indian Penal Code and Sections 30(a), 41, 56(B) and 56(D) of the Bihar Prohibition and Excise Act 2016 (*in short the "Excise Act or the Act of 2016"*).

6. It is the case of the petitioner that he had approached the Court of learned Exclusive Special Excise Judge-1, Muzaffarpur for release of the vehicle. The learned Court ordered for release of the same *vide* order dated 11.01.2023, but the same was not released in the favour of the petitioner. It is further stated that no notice of confiscation proceeding was received by the petitioner, but the vehicle was



auctioned in favour of one Bhola Sah (respondent No. 9) on 31.03.2023. It is stated regarding said Bhola Sah that he is the man set up by the then Dy. S.P. (East), Muzaffarpur.

Order dated 14.11.2025

7. Taking note of the kind of averments made in the writ application, this Court, while hearing the matter on 14.11.2025, passed the following order:-

“The facts revealed in the present writ application are mind-blowing. A vehicle Mahindra Scorpio S9 manufactured in November, 2018 having an insurance value of Rs.12,12,517/- during the period January, 2019-January, 2022 was seized on 25.12.2020 by the officer in-charge of Sakra police station, namely, Lal Kishore Gupta. He lodged a First Information Report on the basis of his self-statement alleging that from the Scorpio vehicle of the petitioner there was a recovery of 3.750 liters of foreign liquor. As advised to the petitioner, he applied for release of the vehicle in the court of learned Exclusive Excise Court No.1, Muzaffarpur where the case was pending and the learned court vide its order dated 11.01.2023 directed release of the aforesaid vehicle in favour of the petitioner.

2. It is the specific case of the petitioner that the vehicle was not released and the same was being used by Dy.S.P. East, Muzaffarpur. In this connection, he filed a petition (Annexure-P/2) in the court wherein it was brought to the notice of the learned court that the vehicle had not been released and the said Scorpio



vehicle is being used by the then Dy.S.P. East, Muzaffapur. The petitioner filed yet another application before the learned court on 07.10.2023, a report was called for from the S.H.O., Sakra and District Magistrate, Muzaffapur. This time a report came that the petitioner's vehicle has been auction sold on 31.03.2023 and one Bhola Sah had purchased the vehicle.

3. It is submitted that the vehicle was sold to Bhola Sah after passing an order of confiscation combinedly of 490 vehicles. There was a news in the newspaper 'Prabhat Khabar' that 490 vehicles are being auction sold. The vehicle of the petitioner was sold in favour of Bhola Sah for a sum of Rs.3,85,000/- only and possession was handed over to him.

4. The effort of the petitioner to challenge the order of confiscation before the Excise Commissioner in Excise Appeal Case No.30/2024 and the Secretary (Liquor Prohibition and Excise), Government of Bihar failed as both the authorities rejected the appeal and revision.

5. A counter affidavit has been filed on behalf of the State-respondents wherein the seizure of the vehicle and the auction sale have been defended.

6. We have *prima-facie* perused the counter affidavit carefully and have noticed that many significant aspects of the matter have been completely missed out by the respondent authorities. We take note of those issues hereunder:-

(i) The vehicle in question was seized and a confiscation proceeding is said to have been initiated but the counter affidavit of the State nowhere discloses that after verification of the owner of the vehicle a notice was



served upon the owner/petitioner informing him of the on-going confiscation proceeding.

(ii) The vehicle in question was confiscated, however, the said ex-parte order of confiscation has not been brought on record with the counter affidavit.

(iii) There is no answer to the specific statement of the Patna High Court CWJC No.13123 of 2025(3) dt.14-11-2025 4/6 petitioner that despite the order for release of the vehicle by the concerned court, the vehicle was in possession of the then Dy.S.P. East, Muzaffarpur and he was using the said vehicle.

(iv) No notice fixing date of auction or giving an opportunity to the petitioner to get release of the vehicle before auction or to otherwise approach the auctioning authority in this connection has been brought to the notice of the Court with the counter affidavit.

(v) The vehicle was only two years old at the time of its seizure, it is stated that the vehicle in question was auction sold on 31.03.2023 to one Bhola Sah for Rs.3,85,000/- only i.e. for almost only about 30% of the insured value.

7. The entire exercise of power right from the seizing officer i.e. S.H.O. to the confiscating authority and the authorities who indulged in auction sale are indicating foul play in action, arbitrary and malafide. From 25.12.2020 to 31.03.2023 who was using the vehicle.

8. In such circumstance, we issue notice to the State-respondents 1 to 8 to file a supplementary counter affidavit stating as to why the impugned orders be not set aside and the State be directed to pay the petitioner the value of the vehicle as indicated in the insurance document together with interest from the date of seizure till the date of payment and such amount be recovered from the pocket of the erring officers.

9. We direct that the auction purchaser be made



respondent no.9 in course of the day.

10. Issue notice to the respondent no.9 through both modes i.e. under registered cover with A/D as well as under ordinary process for which requisites etc. must be filed within one week from today.

11. The auction purchaser shall keep the vehicle safely and shall not transfer the vehicle or hand over the possession thereof to any person during pendency of the application.

12. We have noticed that there is a statement to the effect that altogether 490 vehicles have been auction sold in one go in the same manner.

13. We call for a report from the District Magistrate, Muzaffarpur in this regard giving comprehensive information as to whether the procedures established by law in terms of Rule 12A of the Bihar Prohibition and Excise Rules, 2021 as amended vide Amendment Rules, 2022 together with the procedures applicable in the matter of auction sale have been followed or not. Let such affidavits be filed within three weeks from today.

14. The attention of the District Magistrate, Muzaffarpur is being drawn towards the matters appearing from the records from which it appears that in the auction one particular person has purchased 8 vehicles in the auction and some other persons have purchased in lot of 4-5 vehicles. In some of the matters, this Court has already directed the Economic Offence Unit to look into the racket which is going on in the matter of sale of the vehicles. The District Magistrate, Muzaffarpur shall submit a preliminary report in this regard and all such persons who have been regularly participating in the auction purchase of the vehicles and have purchased the vehicles in lots particularly those who are related to or connected with the officials of the Excise Department and the police officers posted in the



different police stations of Muzaffarpur be also identified and a complete report be sent to this Court. We would tag this case with CWJC No. 4697 of 2025 for further action.

15. List this matter on 15.12.2025 under the same heading maintaining its position.”

8. Pursuant to the aforesaid order, a supplementary counter affidavit has been filed on behalf of the respondents nos. 5 and 7. Initially, the counter affidavit was filed on behalf of respondent Nos. 3 and 7 sworn by the Assistant Commissioner, Prohibition, Muzaffarpur. Subsequently, a counter affidavit also came to be filed on behalf of respondent No. 6 sworn by the Dy. S.P., Cyber, P.S.-Muzaffarpur and respondent no. 8.

9. The case of the official respondents is based on the stand taken in the supplementary counter affidavit filed on behalf of respondent Nos. 5 and 7 and for most of the answers, the respondents have relied upon the averments made therein.

10. In the counter affidavit, efforts have also been made to impress upon this Court that the petitioner has got some criminal antecedents. However, while hearing the matter, we have made it clear that in the present writ application we are not concerned with the criminal cases pending against the petitioner. One of the pleas in the supplementary counter affidavit is that the then Departmental Head in the Excise Department issued a letter No. 633 dated 25.01.2023 containing several instructions



in the matter of confiscation and auction sale of the seized vehicles. In course of hearing, however, the same has not been pressed. We have gone through the said Memo No. 633. To us, it is crystal clear that Memo No. 633 cannot prevail upon the statutory requirements under Rules 13A and 14 of the Rules of 2021 (as amended up-to-date). We are only examining the grievance of the petitioner with respect to the order of confiscation and subsequent auction sale of the vehicle without following the established procedure of law.

Order dated 17.12.2025

11. This writ application was taken up for consideration yesterday, *i.e.*, 17.12.2025. What transpired in the hearing are recorded in the order drawn on 17.12.2025, which we reproduce hereinbelow for a ready reference:-

“We have heard this matter at length at 10:30 AM. Certain questions were put to learned counsel for the State keeping in view the statements made in the counter affidavit/ Supplementary counter affidavit filed on behalf of Respondent Nos. 5 and 7.

2. Since learned counsel for the State was not well aware of the complete facts, we thought it just and proper to hear the ADM, Muzaffarpur and the Excise Superintendent, Muzaffarpur who are the members of the team responsible for auction of the confiscated vehicles.

3. The matter was taken up again at 02:15



PM and on our request Mr. V.N.P. Sinha, learned Senior Counsel and learned Standing Counsel for the Economic Offence Unit, Bihar, Patna along with learned Associate Counsel Mr. Vijay Anand has appeared. This is in view of our previous order wherein we have indicated that this case would be tagged with CWJC No. 4697 of 2025.

3. It has transpired in course of interactions with ADM, Muzaffapur and the Superintendent of Excise, Muzaffarpur that initially, a Confiscation Case No. 79 / 2021-22 was registered in connection with the vehicle in question. The Officers present online have stated that on record though a format of the notice is available but there is no proof of dispatch of the notice to the petitioner. They have also confirmed that no service report of the notice is available on the record.

4. It is stated that later on the said confiscation case was abandoned and a fresh confiscation case called common Confiscation Case No. 03 / 2022-23 was registered. In the said common confiscation case, again no notice was issued to the petitioner and the other vehicle owners whose vehicles were proposed to be confiscated. By one stroke of pen, the then Deputy Development Commissioner, Muzaffapur passed a common order of confiscation of altogether 490 vehicles including vehicle of the petitioner. A copy of the order as contained in Memo No. 723 dated 15.03.2023 has been brought on record with the supplementary counter affidavit. The Officers have informed that after passing of this common order of confiscation, the auction sale of the vehicles were conducted. The first auction sale notice was published



on 25.03.2023 in which the date of auction sale is mentioned between 28.03.2023 and 31.03.2023 at 11:00 AM in Zila Parishad Bhawan, Muzaffarpur. Prior to this, notice was published on 25.02.2023 in which the date of auction was mentioned as 23.03.2023 at 11:00 AM and it was provided therein that the vehicles which will be left over would be auction sold on 28.03.2023. The auction notice contains the minimum price of the vehicle assessed by the Motor Vehicle Inspector.

5. This Court has noticed that the minimum price of the vehicles are though mentioned in the notice but the basis of such price is not known. Nothing is stated about the parameters followed for purpose of assessment of the minimum value of the vehicle. For example, minimum price of one Alto Car is fixed at Rs.20,000/-, minimum price of a Tata Company Truck has been shown at Rs.1,90,000/-. A Mahindra XUV 500 has been fixed at Rs.2,95,000/-, WagonR is for Rs.25,000/- and a 109 DCM Truck is of Rs.1,15,000/-. One Passion Pro has been valued at Rs.2950/- whereas a Mahindra Bolero Pickup is valued at Rs.5000/- only. The vehicle in question being a Scorpio which was seized in connection with Sakra P.S. Case No. 722 of 2020 has been valued at Rs.3,80,000/- as against the insured value of Rs.12,12,517/-. This vehicle is only two years old. The basis of fixing the valuation is presently not known to the ADM and the Superintendent of Excise, however, they have assured this Court that they will bring the entire documents including the valuation report for perusal by this Court tomorrow i.e. 18.12.2025 for



physical verification at 10:30 AM.

6. It has come on record that in the sale conducted by the Auctioning Authority some of the purchasers have purchased 8 to 10 vehicles. For example one Shri Rohit Kumar, Son of Shri Shailendra Das has purchased 8 vehicles for an amount of Rs.28 lakhs/- whereas one Shri Acchelal Rai has purchased four vehicles out of which two are Tata trucks one is pickup and another is tempo for a sum of Rs.3,62,000/- only. An another person Shri Kailash Rai had purchased 9 vehicles for a sum of Rs.1,90,000/-. The vehicle involved in this case has been sold out to Bhola Das (Respondent No. 9) for a sum of Rs.3,85,000/-. What has transpired is that the Auctioning Authority are also providing the platform to the auction purchasers for further sale of the vehicle and at the instance of the auction purchaser, the auction vehicle is transferred directly in the name of purchaser from the auction purchasers. This is something a procedure unknown in auction matters. Even the Excise Superintendent has stated that such kind of facilities cannot be provided and the vehicle can only be transferred in the name of auction purchasers.

7. To this Court, it appears prima-facie at this stage that the auction sale of altogether 490 vehicles including that of the petitioner has been carried out without following established procedure of law. The matter of valuation of the vehicles and then sale of the vehicles in one go by way of notices as aforesaid do not inspire confidence of the Court.

8. It must be added at this stage that we



called upon the Excise Superintendent to show that the auction notices were published in the newspapers having wider circulation in the areas of the vehicle owners whose vehicles were sought to be auction sold but the Excise Superintendent has stated that for the present the papers in which the notices have been published are not available in his record but he would produce the same tomorrow.

9. Learned counsel for the Respondent No. 9 is present. He has informed that the vehicle has been sold to one Anita Devi, Wife of Raj Kapur Prasad, Resident of VillageGehuapo Jamo, P.S.-Jamo Bazar, District-Siwan. He has informed that Respondent No. 9 is engaged in the business of sale and purchase of the vehicles. Learned counsel for the Respondent No. 9 shall seek instruction and inform this Court as to till date how many vehicles Respondent No. 9 has purchased in auction sale and whether he had sold the auction purchased vehicle(s) to any relative or family member of any Excise Officer or Police Officer. The complete information shall be furnished to the Court tomorrow.

10. Let this matter be listed tomorrow i.e. on 18.12.2025 at 10:30 AM at the top of the list.

11. The ADM, Muzaffapur, the Excise Superintendent, Muzaffapur and the Motor Vehicle Inspector all shall come with the records and show the entire information as recorded hereinabove in order to assist this Court to reach at a proper conclusion. After hearing them, the Court will consider with regard to the action required to be taken.

12. We request Mr. V.N.P. Sinha, learned



Senior Counsel for the Economic Offences Unit to make himself available at the time of hearing.”

Factual position emerging today

12. Today when the officers came with the records, this Court provided them an opportunity to address at length. The Assistant Commissioner, Excise, Muzaffapur personally made some submissions while answering the queries of this Court. We have reduced in writing the questions posed by this Court and the answer to the same provided by the Assistant Commissioner, Excise are as under:-

(i) This Court wanted to know as to whether prior to passing of the common confiscation order in Case No. 03/2022-23, any notice to show-cause as required under Rule 13A of the Bihar Prohibition and Excise Rules, 2021 (as amended up-to-date) was served upon the petitioner?

The Assistant Commission, Prohibition informed this Court that no notice to show-cause was issued to the petitioner prior to passing of the common order of confiscation in Case No. 03/2022-23. However, prior to that, in Confiscation Case No. 79 of 2021-22, a notice was sent to the petitioner, but the record is not containing any proof of dispatch of the said notice and there is no proof of service of the same upon the petitioner.

13. It is submitted that a general notice was published



in the newspaper “Praphat Khabar”, published from Muzaffapur on 18.02.2023, wherein the vehicle owners were informed that they may file an application in terms of Rule 12A of the Bihar Prohibition and Excise Rules, 2021 (as amended up-to date) (hereinafter called ‘the Rules of 2021’) for release of the vehicles and if they want to get release the vehicle, then they should deposit 50% of the latest insured value of the vehicle, whereafter, on submission of the proposal for release, the matter shall be heard. The notice published in the newspaper fixed two dates, i.e., 25.02.2023 and, thereafter, 04.03.2023 as the dates of hearing.

(underline is mine)

14. It has been admitted by the officers present in Court that for all 527 vehicles, the same and one date of hearing, i.e., 25.02.2023 was fixed as first date of hearing and then again one date was fixed, i.e., 04.03.2023 for all the 527 vehicles.

15. It is also admitted that in terms of sub-Rule (3) of Rule 13A of the Rules of 2021, the procedure prescribed in the Code of Criminal Procedure, 1973 for service of summons has not been followed.

16. This Court has been further informed that the Excise Superintendent, Muzaffapur wrote a letter, bearing No.



470 dated 20.02.2023, to the MVI, Muzaffarpur for submission of the valuation report of 527 vehicles which were lying in the premises of different Police Stations in the District of Muzaffarpur. Within two days thereafter, the MVI, Muzaffarpur provided valuation of all the 527 vehicles *vide* his Letter No. 62 dated 22.02.2023.

17. This Court wanted to know from the Assistant Commissioner, Prohibition, Muzaffarpur as to whether it would have been possible for the MVI to visit altogether 22 Police Stations within whose premises the 527 vehicles were lying and to submit a composite report within two days of writing of the letter in this regard by the Excise Superintendent, Muzaffarpur, the Assistant Commissioner has categorically submitted that it would not have been possible for the MVI to submit a report within two days in respect to such huge number of vehicles.

18. Then, this Court called upon the officers including the present MVI, Muzaffarpur to show as to what is the basis of valuation of the 527 vehicles?

19. Mr. Ranjan Kumar Gupta, MVI, Muzaffarpur has stated, in presence of all, that he did not find any cheat of paper on the records showing the basis of valuation of the individual vehicles as mentioned in the letter of the then MVI, Muzaffarpur.



There is nothing in the record to show that he had visited the premises of the Police Stations to have the physical verification of the vehicles in order to find out their conditions. No photographs of the vehicles have been preserved. There is nothing on the record to show that what prevailed upon the mind of the then MVI, Muzaffarpur to reach on a conclusion that a particular vehicle be valued at a particular amount.

**Procedure followed in conducting auction sale-
auction notice issued before passing of confiscation order**

20. Then, this Court moved towards examining the procedure followed in the matter of auction sale of the vehicles. It is found that two short-term public notices were issued for auction sale of the vehicles. The first short-term auction sale notice (annexed from page 77 to 92 of the supplementary counter affidavit) was issued on 25.02.2023. In the short-term notice, the date of auction of all the vehicles have been mentioned and according to this, the auction sale was to be conducted on 01.03.2023 and 23.03.2023, whereafter the left over vehicles were to be auction sold on 28.03.2023.

21. Having gone through the first auction sale notice, this Court called upon the officers to answer as to how the auction sale notice was issued on 25.02.2023 when the common



order of confiscation was yet not passed and according to the notice published in the “Prabhat Khabar” on 18.02.2023, the date of hearing of the matters were on 25.02.2023 and 04.03.2023. There was no answer to this query of the Court and it has been admitted that the auction sale notice was issued on 25.02.2023, even as on the said date, there was no order of confiscation of the vehicles. The order of confiscation has been brought on record with the supplementary counter affidavit as part of Annexure-A series.

22. It is evident that a common order of confiscation has been passed in respect of 490 vehicles *vide* Memo No. 723 dated 15.03.2023. The vehicle of the petitioner finds mentioned at Serial No. 349 of this common order of confiscation.

23. Thus, the admitted position is that common confiscation order came much after the notice of auction sale was issued. The another disturbing feature of this notice is that the auction sale was to be conducted on 01.03.2023 which means it was to be conducted even before the second date of hearing fixed in the notice published in the Prabhat Khabar.

24. The second notice for auction sale was issued on 25.03.2023 (Page 93-97 of the supplementary counter affidavit) and vide this short notice the people were informed that the



auction sale shall be conducted from 28.03.2023 to 31.03.2023.

Under this notice several vehicles were put on auction including the vehicle of the petitioner. In all the auction sale notices the minimum value of the vehicle was indicated as per the report received from the then MVI, Muzaffarpur which we have discussed hereinabove and the kind of values fixed by the then MVI, Muzaffarpur has been indicated in our previous order.

Auction sale notice nor published in Newspaper as per Rule 14

25. This Court wanted to know as to whether these auction notices which are said to have been issued for auction sale were published in any newspaper having wide circulation in the area, the Assistant Commissioner Prohibition, Muzaffarpur has submitted that as regards the first notice issued on 25.02.2023 though he finds a copy of letter which was sent to the Director of Information and Public Relation Department, Government of Bihar to publish the same in newspaper, with regard to the second auction notice under which the vehicle of the petitioner was sold, there is nothing on the record to show that any request was made to the department to publish the auction sale notice in a newspaper. On record, there is nothing to show that the any paper publication was done. It is not



contested that as per sub-rule 3 of Rule 14 of the Rules of 2021, before the auction, the Collector or the officer has to cause valuation of the vehicle done and then to invite bid through public advertisement in at least one local/vernacular newspaper and further the sub-rule 3 provides that where he does not receive any offer for a particular item in the first attempt of auction, he may invite bids again and after three attempts if he does not receive any bid, he may dispose of the said vehicle on 'as is where is' basis regardless of the valuation.

26. Admittedly, in this case no bid was invited through public advertisement in a newspaper and there is a blatant violation of the Rules.

27. In the aforementioned background of the materials placed before this Court and the statements made, we have been left with the task of examining the impugned orders of confiscation and auction sale and further we have to take a view as to whether the materials placed before this court are such that the conscience of this Court requires the matter to be sent to an investigating agency of repute to investigate into the matters brought to the notice of this court regarding the rampant corruption and under hand dealing in conduct of auction sale?

28. At this stage in order to consider this aspect of the



matter, we have also interacted with Respondent No. 9 who is present in person. He has informed that he had purchased 12 vehicles in auction sale for a total amount of Rs. 10,65,000/-. According to him out of these 12 vehicles he has sold six vehicles in scrap but for this he has not taken any permission from the prescribed authority and even the Registration Number of the vehicles have not been surrendered. He has stated that he got information about the auction sale of the vehicles from one of his friends who sale sweets near the place where the auction sale was to be conducted. He got the vehicle sold to one Anita Devi through a person namely Pervej Alam who is also involved in sale and purchase of vehicles. He has named some persons also with whom he is involved in purchase of vehicles in auction sale. Respondent No. 9 has stated that he sold the vehicle to one Anita Devi at the instance of said Pervej Alam therefore he does not know much about her and the connections of the auction purchaser or the persons with the officers of the Excise Department and the local police stations.

Conclusion

29. Having regard to the entire discussions and the materials placed before us, we have no difficulty in arriving on an irresistible conclusion that in this case the authorities who



were involved in the confiscation and auction sale of the vehicles have not shown any respect for the rule of law. Whether they are negligent, not competent or are acting for extraneous consideration is a question. Anyone of these things may be possible. It is very difficult to take a view that the officers holding such high ranks in the Government Department would not be aware of law/legal provisions and or they would violate law or provisions with impunity without there being any extraneous considerations. What has happened in this case is writ large on the face of the records. Despite there being specific provisions under rule 13(A) and 14 of the Rules of 2021 (as amended up-to-date) these authorities have not taken any interest in observing the procedures. We reproduce rule 13(A) and Rule 14 of the Rules of 2021 as under for a ready reference:

[13A. Procedure of confiscation of vehicle/conveyance etc.-(1) Where it is decided by the Collector that the vehicle is not to be released on penalty of where the owner does not pay the required penalty, the confiscation proceeding shall be initiated. The proposal for confiscation of the conveyance shall be sent by the police/excise officer to the Collector (or an officer authorized by him) within 30 days from the date of seizure. The officer concerned shall immediately start the confiscation proceeding.

In case of delay of beyond 30 days, in submission of the proposal for confiscation, the



police/excise officer will have to explain the delay.

(2) The officer concerned, on receipt of proposal for confiscation of any vehicle(s) or other conveyances from police/excise officer, shall issue show cause notice to owner of the said vehicle or the vessel or other conveyance. Simultaneously, he shall issue notice to the District Transport Officer and the Chemical Examiner, their reports.

(3) Such notice issued by the officer shall be served as per procedure prescribed in the Code of Criminal Procedure, 1973 for service of summons. He shall obtain report from the District Transport Officer or any authority authorized for the purpose of registration of the conveyance and the report of chemical examiner within 30 days of seizure.

(4) The officer shall provide reasonable opportunity of hearing to the owner. The investigating/inquiry officer shall also be given opportunity to participate in such hearing.

(5) If, on the date fixed for hearing, the person(s) to whom the notice has validly been served fail(s) to appear in the proceeding on two consecutive dates fixed for hearing, the confiscating authority shall proceed to pass the order ex-parte.

(6) The officer, after hearing the parties, on satisfaction that an offence has been committed in terms of the Act, shall pass appropriate order with respect to seized vehicle or vessel or conveyance as the case may be.

(7) The officer shall ensure that the order for confiscation is passed within 90 days from the date of seizure of the vehicle.



(8) Any person aggrieved by the order passed by the Collector under the provisions of the Act may file appeal in the manner prescribed under these Rules.]

[14. Auction or Destruction of Seized/Confiscated items.-The items seized/confiscated by the Collector or any officer authorized by him may be disposed of by him, either by auction or by destruction, in the following manner:

(1) If the Collector or the officer authorized by him, is satisfied that any seized article, is liable to speedy and natural decay or is of trifling value or can be put to misuse or endangering public safety or occupying public space, he may, in exercise or power under Section-57 and Section-57A of the Act, order for destruction of the same at any time before passing the order of confiscation. The Collector or the officer concerned shall ensure that any seized liquor should not be allowed to remain stored for a very long time. He shall ensure that the said liquor is destroyed within 15 days of its seizure after having obtained the report of the chemist.

(2) The confiscated animal/vehicle/vessel/other conveyance premises or part thereof shall be put to public auction and sold to the highest bidder within a period of one month from the date of attainment of finality of order of the confiscating authority or such extended period as deemed fit by the Collector/authorized officer or may be put government use in the manner prescribed.

(underline is mine)

(3) Before the auction, the Collector or the



officer may cause the valuation of the vehicle/conveyance/premises. He shall then invite bid through public advertisement in at least one local/vernacular newspaper. Where he does not receive any offer for a particular item in the first attempt of auction, he may invite bids again. If, after three such attempts, he does not receive any bid, he may dispose of the said vehicle/conveyance on an "as is where is" basis regardless of the valuation."

30. We have noticed that at first instance there is a complete violation of sub-Rule (2) and sub-Rule (3) of Rule 13A of the Rules of 2021. No show-cause notice has been served upon the petitioner. In second instance when a paper publication of notice was done on 18.02.2023 in Prabhat Khabar, the confiscating authority made a condition in the notice that the vehicle owners would be liable to deposit 50% of the insured value as penalty amount and after deposit of the said amount they can file an application in Form-IV for release of the vehicle.

31. In the opinion of this court this kind of condition imposed upon the vehicle owners to first deposit 50% of the penalty amount even as the penalty amount was yet not fixed is completely an unmindful act and it was impossible to comply with it. While fixing the date for hearing in the common confiscation case two dates were fixed perhaps keeping in view



the mandate of sub-Rule (5) of Rule 13 of the Rules of 2021. Those dates were 25.02.2023 and 04.03.2023. It is surprising that for altogether 527 vehicles one date was fixed by the competent authority. This is nothing but in the nature of an empty formality because it may be anybody's opinion that the competent authority could not have considered cases of confiscation in respect of 527 vehicles on one date. Again the second date *i.e.* 04.03.2023 was fixed for all the 527 vehicles.

32. This Court understands that the competent authority and the officers engaged in the auction sale were proceeding with a preconcerted mind to auction sale all the vehicles in one go while doing empty formality as a skin saving measure.

33. It is quite disturbing that these authorities who were sitting on the higher echelon of the posts did not mind issuing an auction sale notice on 25.02.2023 itself which was the first date fixed for hearing in the confiscation matter. The date of sale was fixed on 01.03.2023 which was even before the second date fixed for hearing. All the kind of formalities were being done is apparent on the face of it.

34. In terms of Rule 14 of the Rules any auction of vehicle could have been held only after the order of confiscation would attain finality. Such finality would come only after



revisional order. In these cases of auction sale, in fact, no opportunity was made available to the vehicle owner(s) to file an appeal. They were deprived of their statutory right of appeal and revision.

35. In order to achieve the set goals, the Excise Superintendent wrote a letter to the then MVI, Muzaffarpur on 22.02.2023 calling upon him to submit a valuation report in respect of 527 vehicles. We have gathered from the records that these 527 vehicles were lying in 22 police stations of the district of Muzaffarpur. By no stretch of imagination it could have been possible for the then MVI, Muzaffarpur to submit a valuation report in respect of all the vehicles within two days but he did that which was not possible by way of a reasonable approach. We have described how the value of the vehicles were fixed. Few examples we have given in our previous day order. We called upon the MVI, Muzaffarpur who is present in court to show that what is the basis of fixing the minimum value of the Scorpio vehicle of the petitioner at Rs. 3,80,000/- when the insured value of the vehicle was Rs. 12,12,517/-. It is not one of those cases in which any bid was earlier invited. It is not the case of the respondents that in respect of this vehicle or other vehicles no bid was coming despite three attempts taken as per Rule to invite bids. This is also not stated that the valuer had provided any distress sale value of the



vehicle in his report. It is not a case of scrap auction as envisaged in Departmental Memo No. 5964 dated 04.08.2022.

36. The MVI, Muzaffarpur has clearly informed this Court that he does not find any basis of valuation and cannot say that how the then MVI, Muzaffarpur could have done the valuation on his own within two days in respect of all 527 vehicles. There is no photographs of the vehicles. In these materials this Court can reach to only one and one conclusion that the valuation report submitted by the then MVI, Muzaffarpur was only a paper work which he prepared sitting in his office.

37. The arbitrariness in fixing the value of the vehicle and extraneous considerations behind the same causing huge loss to the public exchequer cannot be ruled out. Here is the case of the petitioner who is alleging underhand-dealing in the matter of auction sale of the vehicles. Several connecting circumstances have been noticed by this court right from the stage of confiscation of the vehicle till issuance of notice of the auction sale. The auction sale notice under which the vehicle of the petitioner has been sold was not even published in a newspaper as required by law. One particular person is purchasing 10-12 vehicles in the auction sale. How does he come to know about the auction sale and what is his connections which make it possible for him to succeed in auction every time are some matters which would



require answer for instilling public confidence and public accountability in these kind of transactions.

38. We have recently noticed in C.W.J.C. No. 4697 of 2025 that how auction sale of vehicles has been conducted in the district of Gopalganj. The matter is under investigation with the Economic Offence Unit (EOU), Bihar, Patna *vide* E.O.U. P.S. Case No. 42 of 2025. In the kind of materials present on the record in the present case we find that it is a fit case in which the E.O.U. must register a First Information Report and investigate into the matter of the fixation of the valuation of the vehicles and auction sale in the matter it has been done in the present case. The role of authorities involved and the connections of the auction purchasers are required to be verified and gone into. The manner in which subsequent transfers have taken place and to whom such transfers have taken place are also required to be noticed by the investigating agency.

39. We therefore direct that the E.O.U., Bihar, Patna be added as Respondent No. 10 in course of the day.

40. We are thankful to Mr. V.N.P. Sinha, learned Senior Counsel for his giving so much time to the court in course of hearing. This was required in order to appreciate the whole matter and for that reason we had requested him to be present. Learned Senior Counsel shall bring this order to the notice of the E.O.U.



for purpose of registration of the FIR and taking up the investigation.

41. We, however, hasten to add that the investigating agency shall conduct investigation independently and no part of the observations of this court at this stage for purpose of appreciation of the matter shall influence the investigation.

42. As we have discussed the entire matter and found that the order of confiscation and auction sale of the vehicle has been done in complete violation of law and at this stage the vehicle has already been auction sold and the auction sold vehicle has been further transferred to a third party while setting aside the order of confiscation and holding that the auction sale was bad in law, in the changed circumstances we think it just and proper to grant the alternative prayer of the petitioner.

43. We direct the respondent/State of Bihar through the Principal Secretary, Excise Department (respondent no. 1) to pay a sum of Rs. 12,12,517/- together with interest at the rate of 6% per annum with effect from three months after the date of seizure till the date of payment. Such payment shall be made within a period of one month from the date of receipt/communication of a copy of this order. Three months from the date of seizure is the statutory period for passing confiscation order, so we have allowed interest from a later date.



44. This Court further awards cost of Rs. 10,000/- to the petitioner as cost of litigation which would also be paid within the same period.

45. In the case of *K.K. Pathak @ Keshav Kumar Pathak Vs. Ravi Shankar Prasad & Ors.*, reported in *2019 (1) PLJR 1051*, the learned writ court has taken a view that for any misuse or excessive use of power by an executive of the State, if the State is to be saddled with cost and compensation, the same must be realized from the erring officials. This judgment was under challenge before the Hon'ble Supreme Court in SLP (Cri) No. 003566 of 2019, however the same was not interfered with. We find that in this case since the State has to pay the entire amount with interest and cost to the petitioner, the State must recover the difference amount, i.e., Rs. 12,12,517 - Rs. 3,85,000 is = 8,27,517/- (Rupees Eight Lakhs Twenty Seven Thousand Five Hundred Seventeen) together with interest and cost from the erring officials in accordance with law within a period of six months from the date of payment to the petitioner.

46. It is directed that the Department shall take appropriate view in administrative side not only to take appropriate action against the erring officials in accordance with law, but would also instruct the officers dealing with the confiscation and auction matters to strictly abide by the Rules of



2021 in a time frame.

47. We expect that the competent authority in the E.O.U. shall constitute a Special Investigation Team to investigate into the matter in a time bound manner. Finding that the involvement in this case is huge, for the present this Court would monitor (not supervise) the progress in the investigation. Tag this with C.W.J.C. Nos. 4697 of 2025 and 12075 of 2025 and list it on 27.01.2026 under the heading “For Orders”.

48. A copy of this order be handed over to Mr. V.N.P. Sinha, learned Senior Counsel assisted by Mr. Vijay Anand, Advocate.

49. Personal appearance of the officers stand dispensed with.

(Rajeev Ranjan Prasad, J)

(Sourendra Pandey, J)

Praveen-II/Krishna

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	19.12.2025
Transmission Date	

