

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
Civil Writ Jurisdiction Case No.6672 of 2020**

Govind and Company Having its Principal place of business at 2nd Floor, Shankar Commercial Complex, T.R.P. Road, Fancy Bazar, Guwahati Kamrup Matro Politan, Assam, 781001, through its Proprietor Govind Sarda, aged about 25 Years, Male, Son of Daulal Sarda, resident of Uttarayan Villa, BRP Road, Kumar Para, P.S. Bharauli Mukh, District Guwahati.

... .. Petitioner/s

Versus

1. The Union of India Through the Chief Commissioner of Customs, Central Revenue Building, Birchand Patel Path, Patna.
2. The Commissioner of Customs (Preventive) Head Quarters, 5th Floor, Central Revenue Building, Birchand Patel Path, Patna.
3. The Additional Commissioner cum Adjudicating Authority Office of the Commissioner of Customs (Preventive), HQRS, 5th Floor, Central Revenue Building, Birchand Patel Path, Patna.
4. The Assistant Commissioner of Customs (Preventive) Division Motihari, District Motihari, Bihar.
5. The Inspector of Customs (Preventive) Division Motihari, District Motihari, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s :Mr.Prabhat Ranjan, Adv.

For the Respondent/s :Mr.Alok Kumar Agrawal, SC, Department of Customs

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 30-06-2020 Learned counsel for the petitioner undertakes to remove the defects, if any, within three weeks from the date of start of normal functioning of the Court.

Heard Mr. Prabhat Ranjan, learned counsel for the petitioner and Mr. Alok Kumar Agrawal, Standing Counsel for the Central Government, Department of Customs.

This writ application has been preferred with a prayer to direct the respondents to release the goods and trucks seized



in connection with Motihari Custom Division Case No.163/CUS/MTH/19-20 dated 12.01.2020 in terms of the identical orders passed by the adjudicating authority vide C No.VIII(48)35-CUS/FBG/PR/2019/3264-65 dated 27.12.2019.

When the writ application was called out, Mr. Agrawal, learned counsel for the Department of Customs raised an objection against very filing of the present writ application as according to him the writ application has not only been filed by way of duplication for the same and similar reliefs which have been prayed in a pending writ application being CWJC No.2513 of 2020 filed by this very petitioner before this Court, the writ application has also been filed by suppressing certain facts in paragraph 2 of the writ application where the petitioner has stated that he has not filed any writ application for the self-same relief arising out of the impugned order.

Mr. Agrawal submits that in CWJC No.2513 of 2020 the petitioner has not only prayed for quashing of the seizure order but has also prayed for release of the Betel Nuts and the vehicle in question, therefore this writ application seeking release of the goods is nothing but a second writ application for similar relief which is already pending consideration before this Court.



In course of submissions, Mr. Prabhat Ranjan, learned counsel has submitted at the bar that Annexure-2 to the present writ application has been filed before the Commissioner of Customs (Preventive) with a prayer for provisional release of the goods and vehicle pursuant to an observation of the learned coordinate Bench of this Court while hearing CWJC No.2513 of 2020. He has also admitted that in paragraph 2 and 8 of the writ application he should have been specific about the earlier writ filed by him which is still pending and the reliefs prayed therein.

Having heard learned counsel for the petitioner and learned counsel for the Central Government, without going into the merit of the writ application and any other contention, this Court agrees with the submissions of learned counsel for the Central Government that the present writ application is by way of a second writ application for identical relief which is pending consideration in CWJC No.2513 of 2020. Learned counsel for the petitioner has himself submitted that the petition for provisional release (Annexure-2) has been filed by him pursuant to an oral observation of the learned coordinate Bench of this Court, if it is so, in the considered opinion of this Court, the petitioner was obliged to bring the issue of provisional release of the goods and vehicle in the same writ petition before the same



Hon'ble Bench.

This Court is prima-facie of the view that the statements made in paragraph 2 saying that the petitioner has not filed any writ application for the self-same relief is not correct. The statements made in paragraph 8 saying that the petitioner has filed CWJC No.2513 of 2020 being aggrieved by and dissatisfied with the seizure seems to be half-hearted because uncontroverted submission of learned counsel for the Central Government is that the petitioner has prayed for release of the goods and vehicle in the first writ application. This Court is of the view that the petitioner should have come clean by making complete disclosure.

At this stage, Mr. Prabhat Ranjan, learned counsel has much insisted upon his submission that on earlier occasion on behalf of another party he had done the same thing by filing a second writ application but at that time the respondents had not raised this objection and, therefore, they should not have raised this objection in the present writ application.

This Court is unable to accept this submission because if an issue was not raised in a particular case before a particular bench and that did not fall for consideration, the same cannot be ground for this Court not to allow the respondents to raise any



plea which they want to raise in the present writ application. Such submission is devoid of merit and is fit to be outrightly rejected.

Since the Court is of the view that filing of second writ petition by making half-hearted statements is only for purpose of taking a chance to get the matter listed before another Bench and the same has resulted in wastage of Court's time, this Court imposes a cost of Rs.10,000/- (rupees ten thousand) upon the petitioner which will be payable to the Patna High Court Legal Aid Committee within four weeks from today.

The attempt to maintain this writ application, therefore, fails and it is dismissed.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

