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WP-1037-2026

IN THE HIGH COURT OF MADHYA PRADESH  
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE MILIND RAMESH PHADKE

ON THE 16<sup>th</sup> OF JUNE, 2026WRIT PETITION No. 1037 of 2026*GAURAV VERMA**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

*Shri Nirmal Sharma - Advocate for the petitioner.*

*Shri B.K.Tyagi - Govt. Advocete for the State.*

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ORDER

The present petition has been filed under Article 226 of the Constitution of India seeking following reliefs:-

*"(i) The Impugned order Annexure-P/1 dated 22.01.2025 passed by respondent may kindly be quashed.*

*(ii) To grant any relief deemed just and proper in the facts and circumstances of the case."*

Learned counsel for the petitioner submits that the impugned order dated 22.01.2025 passed by the Collector, Bhind, confiscating the petitioner's vehicle under Section 47-A of the Madhya Pradesh Excise Act, 1915 is wholly without jurisdiction, arbitrary and unsustainable in law, as the foundation of the confiscation proceedings is the allegation of commission of an offence under Section 34(2) of the Act in Crime No.319/2020 registered at Police Station Umri, District Bhind. The said criminal prosecution culminated in a judgment of acquittal passed by the competent criminal court after full-fledged trial, wherein



the prosecution failed to establish the alleged offence beyond reasonable doubt.

It is further submitted that the expression employed in Section 47-A(2) of the Act, namely, "where an offence has been committed", necessarily contemplates a lawful determination regarding commission of the offence. Such determination can only be rendered by a competent criminal court upon appreciation of evidence and not by the Collector in exercise of administrative powers. Therefore, during the pendency of the criminal trial, the Collector could not have assumed the role of the trial court and recorded a finding regarding commission of the offence for the purpose of confiscation.

Learned counsel further submits that on the date when the confiscation order was passed, the criminal case arising out of Crime No.319/2020 was still pending adjudication before the competent court. Consequently, the Collector lacked jurisdiction to conclude that an offence had been committed and to confiscate the vehicle. The impugned order amounts to pre-judging the criminal liability of the accused and directly encroaches upon the jurisdiction exclusively vested in the criminal court.

It is further contended that the issue is no longer *res integra* in view of the principles laid down by the Full Bench in Madhukar Rao v. State of Madhya Pradesh reported in (2008) 14 SCC 624, which has been affirmed by the Hon'ble Supreme Court. The ratio of the said judgment recognizes that confiscation proceedings should not attain finality while the criminal prosecution concerning the same alleged offence remains pending. The rationale underlying the said decision is that the question whether an offence has been committed is primarily within the domain of the criminal court and any contrary approach may result in conflicting findings by different authorities.

Learned Counsel further submits that the subsequent acquittal of the



petitioner and other accused persons completely demolishes the basis of the confiscation proceedings, as once the competent criminal court has found that the prosecution failed to prove the allegations and has acquitted the accused, the continuation or enforcement of the confiscation order becomes manifestly arbitrary and violative of Articles 14 and 300-A of the Constitution of India. The petitioner cannot be deprived of his property on the basis of allegations which have not been established in accordance with law.

It is further submitted that the confiscation of the vehicle and forfeiture of the Fixed Deposit Receipt furnished pursuant to the interim release order have resulted in serious civil consequences to the petitioner despite the failure of the prosecution case. Such deprivation of property without a valid adjudication regarding commission of the offence is impermissible in law.

In these circumstances, it is prayed that this Court may be pleased to quash and set aside the impugned order dated 22.01.2025 and grant all consequential benefits to the petitioner, including restoration of his rights in respect of the vehicle and the security amount deposited pursuant to the orders passed during the confiscation proceedings.

*Per contra*, learned Government Advocate appearing for the State supported the impugned order and submitted that the confiscation proceedings under Section 47-A of the Madhya Pradesh Excise Act are independent of the criminal trial. It is contended that the Collector, on the basis of the material available during the confiscation proceedings, was competent to conclude that the vehicle was used for illegal transportation of liquor and to order its confiscation. It was further argued that acquittal in the criminal case does not automatically render the confiscation order invalid and, therefore, no interference is warranted in exercise of writ jurisdiction.



Having given consideration to the rival submissions and upon perusal of the material available on record, this Court finds that the impugned order dated 22.01.2025 passed by the Collector, Bhind under Section 47-A of the Madhya Pradesh Excise Act, 1915 cannot be sustained in law, as the foundation of the confiscation proceedings was the allegation that the vehicle in question was used in the commission of an offence punishable under Section 34(2) of the Act and the record reveals that on the date when the confiscation proceedings were finalized, the criminal prosecution arising out of Crime No.319/2020 was admittedly pending before the competent criminal court and the issue regarding commission of the alleged offence was yet to attain finality. The Collector, while exercising powers under Section 47-A of the Act, proceeded to record a finding that the offence had been committed and consequently ordered confiscation of the vehicle. Such a course was impermissible as the question whether an offence has in fact been committed is a matter falling within the exclusive jurisdiction of the competent criminal court upon appreciation of evidence adduced before it.

What further assumes significance is that during the pendency of the present proceedings, the criminal case arising out of Crime No.319/2020 has culminated in a judgment of acquittal passed by the competent court. The acquittal judgment demonstrates that the prosecution failed to establish the charge under Section 34(2) of the Act beyond reasonable doubt. Once the competent criminal court, after full-fledged trial, has found the prosecution case insufficient to warrant conviction, the very substratum on which the confiscation order was founded ceases to exist. The confiscation order, therefore, cannot be permitted to survive independently of the criminal adjudication in the peculiar facts of the present case.

This Court is also of the considered view that confiscation of property is a



serious consequence having direct bearing upon the constitutional and proprietary rights of a citizen. Such deprivation must strictly conform to the procedure established by law and cannot rest merely upon allegations which have ultimately failed to withstand judicial scrutiny. Continuance of the impugned order despite the acquittal of the petitioner would amount to sustaining a penal consequence in the absence of a legally established offence, which would be arbitrary and contrary to the principles of fairness embedded in Article 14 of the Constitution of India.

The impugned order further discloses that the confiscation was directed primarily on the basis of seizure proceedings and the absence of objections by the petitioner during the confiscation proceedings. However, confiscation of property cannot be sustained solely on such considerations when the foundational requirement regarding commission of the offence itself remains unproved. The subsequent acquittal of the petitioner completely erodes the basis of the confiscatory action.

Accordingly, for the reasons aforesaid, this Court has no hesitation in holding that the order dated 22.01.2025 passed by the Collector, Bhind in Case No.260/20/B-121 suffers from legal infirmity and is liable to be interfered with in exercise of writ jurisdiction under Article 226 of the Constitution of India.

Resultantly, the writ petition succeeds and is hereby **allowed**. The impugned order dated 22.01.2025 passed by the Collector, Bhind is hereby **quashed**. All consequential actions taken pursuant thereto shall also stand annulled. In case the vehicle has not yet been disposed of by the authorities, the same shall be released and handed over to the petitioner forthwith, subject to there being no other legal impediment. In the event the vehicle had earlier been released upon furnishing a Fixed Deposit Receipt and the amount covered by such security has been appropriated or deposited in favour of the State pursuant to the confiscation order,



the respondents shall take necessary steps for restoration and refund of the said amount together with all consequential benefits in accordance with law.

The respondents are directed to carry out the aforesaid exercise expeditiously and preferably within a period of sixty days from the date of production of a certified copy of this order.

The writ petition is accordingly **allowed**. No order as to costs.

(MILIND RAMESH PHADKE)  
JUDGE

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