

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1100 of 2016

Nasrin Begum, wife of Md. Irfan, resident of Ghat Road, Khagekalan, P.s.-
Khagekalan, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar, Through Principal Secretary, Home Department, Government of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Inspector General of Police, Patna Zone, Patna.
4. The Deputy Inspector General of Police, Central Range, Patna.
5. The District Magistrate, Patna.
6. The Senior Superintendent of Police, Patna.
7. The Superintendent of Police, East, Patna.
8. The Sub-Divisional Police Officer, Patna City, District- Patna.
9. The Station House Officer, Khagekalan, District- Patna.
10. The Executive Magistrate, Patna City, Patna.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Vindhyachal Singh
Mr. Mukesh Kant

For the Respondent/s : Mr. M. Nasrul Huda Khan

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT
Date: 16-12-2016

Heard Mr. Vindhyachal Singh for the petitioner and learned
S.C.-I for the State.

Petitioner is aggrieved by the action taken by the respondent in sealing the dwelling house of the petitioner. It appears that one of the brothers-in-law of the petitioner having a licence in crackers was using one room of the house as well as the godown constructed within the precincts for storage of crackers. The respondents having found that the licensee had violated the terms and conditions of the licence as also obtained the licence in breach of Rule 103 of the Explosive Rules 2008, lodged an F.I.R. against the licensee (brother-in-law) on



04.10.2016 and thereafter conducted a search of the business premises wherefrom the explosives stacked therein were found, seized and sealed the godown as well as the entire dwelling house of the petitioner and other claimants thereof.

Counsel for the petitioner submits that under the relevant rule, there is no such jurisdiction conferred upon the authority to seal the entire dwelling house of the petitioner on the ground that in one of the rooms or godown attached to the house, crackers/sparklers beyond the limit prescribed under the Act or prescribed under the licence, were stored.

Counsel for the State, while opposing the prayer, refers to the statement made in paragraph 8 of the counter affidavit filed on behalf of the respondent nos. 6 to 9 wherefrom it appears that the respondents have exercised their right to effect search and seizure of the business premises wherein violation of the relevant Act or Rules framed thereunder and/or terms/condition(s) of the licence was found.

However, the Court does not find from the statements made therein and/or the submission that any jurisdiction has been conferred on the authority under the Act to seal the entire dwelling house, even if, one room thereof or godown adjacent thereto was being used for the purpose of storage of crackers beyond the prescribed limit.

Counsel for the petitioner, in view of the aforesaid, has vehemently submitted that the authorities have acted in a complete



illegal and unauthorized manner in sealing the entire dwelling house of the petitioner.

Having considered the submissions made at the Bar and on perusal of the materials on record, this Court is satisfied that the respondents, in sealing the entire dwelling house of the petitioner, have acted arbitrarily and contrary to law which also violates the constitutional right of the petitioner.

In the circumstances, the present application is allowed by the following order:-

The respondent shall remove the seized articles within 10 days of production of a copy of the order before the Superintendent of Police, East (respondent no. 7) and the Sub-Divisional Police Officer (respondent no. 8) to a place of safe custody and/or shift the crackers/sprinklers to the adjoining godown within the precincts of the house and unseal the house of the petitioner and thereby permit the petitioner or the owner(s) to occupy the house in question. Petitioner would also be entitled to file suit for the harm inflicted by the respondent(s) without requisite or sanction of law.

(Kishore Kumar Mandal, J)

Pankaj/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	22.12.2016
Transmission Date	

