

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 2087 of 2017

Arising Out of PS.Case No. -null Year- null Thana -null District- PATNA

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Lal Babu Ray, S/o Jay Nandan Ray, Resident of Ilahibagh Sampatchak, P.S. -
Sampatchak, District - Patna.

.... Petitioner

Versus

1. The State of Bihar, through the Collector, Patna.
2. The Collector, Patna.
3. The Supply Inspector Rationing, Patna.

.... Respondents

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Appearance :

For the Petitioner : Mr. Dhananjaya Nath Tiwari, Advocate

For the Respondents : Mr. Arvind Ujjwal, SC IV

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 15-11-2017

Heard learned counsels for the parties.

The Pick-up Van of the petitioner bearing registration No.
BR01-GC-7902 was seized and Beur P.S. Case No. 163 of 2017 was
registered under Section 7 of the Essential Commodities Act.

Learned counsel for the petitioner submits that a
confiscation proceeding has been initiated for confiscation of the aforesaid
vehicle.

Submission of the learned counsel for the petitioner is
that the competency of the Executive Authority to confiscate the vehicle is
sub judice before a Larger Bench of this Court in L.P.A. No. 1647 of 2015
(**Baleshwar Roy vs. The State of Bihar & Ors.**) on the ground that the
said power is exercisable by a Judicial Authority. In the circumstances, the
operation of the impugned order be stayed till adjudication of the aforesaid
issue and the vehicle be released, in favour of the petitioner, by way of ad



interim custody as no purpose is going to be served by its continued detention.

Learned counsel for the State-respondents has no objection in interim release of the said vehicle. However, his submission is that appropriate bond be executed by the petitioner to secure production of the vehicle and the order of interim release should be subject to the result of the pending L.P.A.

Considering the submission of the parties, let further proceeding before the court below remain stayed till disposal of the L.P.A. aforesaid and the same shall be subject to the final result of the L.P.A.

Let the aforesaid vehicle be released in favour of the petitioner on execution of surety bond of Rs.3,00,000/- (rupees three lakhs) (not in the form of bank guarantee or cash) along with two sureties of the like amount, with condition that the petitioner shall not dispose of the same without permission of the court and shall produce as and when required by the court.

With the aforesaid observation, this writ application stands disposed of.

(Birendra Kumar, J)

Kundan/-

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