

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No. 1647 of 2017

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

Sanjay Kumar, Son of Ganesh Mahto, Resident of village - Araria, P.S. Kanhauli,
District - Sitamarhi

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Excise and Prohibition Department, Government of Bihar, Patna.
2. The District Magistrate-cum-Collector, Sitamarhi, District - Sitamarhi.
3. The Superintendent of Police, Sitamarhi, District - Sitamarhi.
4. The Excise Superintendent, Sitamarhi, District - Sitamarhi.
5. The Station Head Officer, Kanhauli Police Station, District - Sitamarhi.

.... Respondents

Appearance :

For the Petitioner : Mr. Pushpendra Kumar Singh, Advocate

For the Respondents : Mr. Anil Kumar Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 20-09-2017

Heard learned counsels for the parties.

This writ application has been preferred for quashing the order dated 02.06.2017 passed by the District Magistrate-cum-Collector, Sitamarhi in Confiscation Case No. 43 of 2017 arising out of Kanhauli P.S. Case No. 36 of 2017, a case instituted for alleged violation of the Excise Laws.

Submission of the learned counsel for the petitioner is that the issue whether the Executive Authority have power to confiscate and seal the house seized in connection with the aforesaid case which power is exercisable only by a Judicial Authority is sub judice before a large Bench of this Court in L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**). In the circumstances, till



the decision of the L.P.A. aforesaid, further proceeding of Confiscation Case No. 43 of 2017 arising out of Kanhauli P.S. Case No. 36 of 2017 may kindly be stayed and the house be unsealed by way of interim measure.

Since the authority of the confiscation officer is under challenge before a Larger Bench of this Court in the referred L.P.A., it is directed that operation of the impugned order shall remain stayed till disposal of the L.P.A. aforesaid and shall be subject to the result of the L.P.A. aforesaid.

Considering the facts and circumstances of the case, let the respondents immediately unseal the house of the petitioner and hand over its possession to the petitioner, subject to the result of L.P.A.

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

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
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