

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.2631 of 2017

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

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Sunita Devi W/o Mohan Chaudhary, R/o Village- Ratanpura, Katara Baradari, P.S.-
Bhagwan Bazar, District- Saran at Chapra.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary Excise Department, Govt. of Bihar, Patna.
2. The Collector cum District Magistrate, Saran.
3. The Superintendent of Police, Saran.
4. The S.H.O. Bhagwan Bazar Police Station, District- Saran at Chapra.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Udai Shankar Singh, Adv.
For the Respondent/s : Mr. Vivek Prasad, G.P.7.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT
Date: 20-12-2017

Heard the learned counsel for the parties.

2. Fourteen liters of liquor were allegedly recovered from the shop of the petitioner for which Bhagwan Bazar P.S.Case No. 360 of 2016 was registered under Section 30 of the Excise Act against the named accused person and the police has sealed the said shop situated at Circle No.20, Holding No.641A Ward No.3 (Nagar Nigam Ward No.22 at Chapra).

3. The petitioner has challenged the aforesaid order in this writ application on the ground that executive authority has no power to confiscate in a preliminary manner, which is a power



exercisable by a judicial authority and the matter is already subjudice before a larger Bench of this Court in **LPA No.1647 of 2015 (Baleshwar Roy V. The State of Bihar & Ors.)**. He further submits that a Division Bench of this Court in Cr.W.J.C. No.605 of 2016 in similar circumstances has ordered unsealing of the premises.

4. Considering the urgency of the matter and the aforesaid binding precedent, let the respondent authorities immediately unseal the premises of the petitioner and handover the possession of the shop to the petitioner.

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

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
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