

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.921 of 2017

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1. Monu Kumar Singh, son of Sri Bhola Singh, Resident of Village-Basudeopur Sarai, P.S- Sahebganj, District- Muzaffarpur

.... Petitioner

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna
2. The Principal Secretary, Excise Department, Government of Bihar, Patna
3. The Excise Superintendent, Muzaffarpur, District- Muzaffarpur
4. The Excise Sub-Inspector, Paroo Circle, District- Muzaffarpur

.... Respondents

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Appearance :

For the Petitioner : Mr. Shashi Bhushan Kumar Manglam, Adv.

For the Respondents : Mr. Anil Kumar Sinha(GA1)

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

2 17-07-2017

Heard the parties.

From the restaurant of this petitioner, six liters of liquor was allegedly recovered and some people were found consuming liquor thereat. For the occurrence, aforesaid, Excise Case No. 54 of 2015-2016, corresponding to C 2 Case No. 183 of 2016 (The State of Bihar Vrs. Monu Kumar Singh) was registered and the restaurant was sealed.

The petitioner filed a petition before the learned Special Judge, Muzaffarpur, for unsealing of the said premises. However, the prayer was refused by order, dated 11.05.2017. Thereafter, in Confiscation Case No. 39 of 2016-2017 the premise was confiscated by the Collector, Muzaffarpur.

The confiscation order has been challenged by filing I.A. No. 1462 of 2017.

Submission of the learned counsel for the petitioner is that the issue whether the executive authority can exercise the judicial power of confiscation is under subjudice before a larger Bench of this Court in L.P.A. No. 1647 of 2015. Hence, pending



adjudication of the aforesaid issue, the impugned order, dated 23.05.2017, passed in Confiscation Case No. 39 of 2016-2017 by the Collector, Muzaffarpur, may be stayed and the premise may be unsealed as no useful purpose is going to be served by its continuous sealing.

Considering the pendency of the aforesaid issue before the larger Bench, let the operation of the impugned order, dated 23.05.2017, passed in Confiscation Case No. 39 of 2016-2017 remain stayed till disposal of the L.P.A. aforesaid.

The respondents shall immediately unseal the business premise of the petitioner with the direction that the premise shall not be used for any illegal purpose.

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

(Birendra Kumar, J)

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