

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1054 of 2017

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1. Mahendra Sah, son of Late Chekhuri Sah, R/o Village- Lalapur, P.S.-
Kudra, District- Kaimur (Bhabhua) Petitioner

Versus

1. The State of Bihar, Through The Commissioner, Excise Deptt., Bihar,
Patna
2. The Collector cum District Magistrate, Kaimur at Bhabua
3. The Superintendent of Police, Kaimur at Bhabua
4. Circle Officer, Block Kudra, Kaimur at Bhabua
5. The Officer-in-charge of Kudra Police Station, Kaimur at Bhabua
.... Respondents

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Appearance :

For the Petitioner : Mr. Tribhuwan Narayan, Adv.
For the Respondents : Mr. Anil Kumar Sinha, GA I with
Mr. Pawan Kumar, AC to GA I

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

2 02-08-2017 Heard the parties.

The present writ application has been preferred under Article 226 of the Constitution of India praying therein for issuance of mandamus against the respondents to unseal the dwelling house of the petitioner and restore possession of the same in favour of the petitioner situated in Gram Lalapur, P.S. Kudra, district Kaimur at Bhabhua. The said house was sealed in connection with Confiscation Case No. 53 of 2016-2017 arising out of Kudra P.S. Case No. 127 of 2016 for alleged violation of the provisions of the Bihar Prohibition and Excise Act, 2016.

It has been submitted by the learned counsel for the respondents that the processes of issuance of guidelines, in the matter, of sealing of the premise in exercise of power under Section 62 of the Bihar Prohibition and Excise Act, 2016, is under-way with the Government.

Considering the fact that the State-Government has not framed the guidelines as yet for sealing the premises under Section 62 of the Bihar Prohibition and Excise Act, 2016, as well as considering the fact that power of the executive authority to seal and confiscate is pending consideration before a larger Bench of this Court in L.P.A. No. 1647 of 2015 (**Baleshwar Roy Vrs. The State of Bihar & Ors.**) and also considering the fact that due to aforesaid pendency of the question in the Letters Patent Appeal, aforesaid, some other coordinate Benches have also ordered for unsealing of the premises, it is directed that respondents shall

immediately unseal the dwelling house of the petitioner, which was sealed in connection with Confiscation Case No. 53 of 2016-2017 arising out of Kudra P.S. Case No. 127 of 2016. However, this order shall be subject to the result of the Letters Patent Appeal, aforesaid.

With the aforesaid observations, this application stands **disposed off**.

(Birendra Kumar, J)

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