

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1995 of 2017

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Raj Kishore Prasad Son of Late Rajendra Prasad Resident of Village - Janki Asthan,
Braham Asthan Ward No. 7, P.S. - Sitamarhi, District - Sitamarhi.

.... Petitioner

Versus

1. The State of Bihar Excise Commissioner, Deptt. of Excise & Prohibition Deptt. Govt. of Bihar Patna.
2. The District Magistrate, Sitamarhi.
3. The Superintendent of Police, Sitamarhi.
4. The Excise Superintendent, Sitamarhi.
5. The Excise Inspector, Sitamarhi.
6. The Officer-in-charge, Town, P.S. Sitamarhi.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Alok Kumar Alok, Adv.
: Mr. Santosh Kumar, Adv.
For the Respondent/s : Mr. Vikash Kumar, S.C.11.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT
Date: 08-11-2017

Heard learned counsel for the parties.

2. This writ application has been preferred for release of referred shop and store room, which was sealed in connection with Sitamarhi P.S. Case No. 674 of 2016, a case registered for alleged violation of the Bihar Excise Law. Thereafter, Confiscation Case No.38 of 2017 was initiated by the Collector, Sitamarhi.

3. Learned counsel for the petitioner submits 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. Learned counsel for the State-respondents prays for time for seeking instruction and filing counter affidavit.

5. Considering the urgency of the matter and the aforesaid binding precedent, let the respondent authorities immediately unseal the said shop of the petitioner on filing undertaking that the petitioner shall not dispose of the said shop or put under encumbrance or sublet to any one without permission of the authority concerned.

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

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.11.2017
Transmission Date	11.11.2017

