

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1741 of 2017

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

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1. Chakali Ramesh @ C. Ramesh, Owner of Ambulance No. - AP21-TW-1735 (Force Tax) S/o C. Venakata Ramudu Resident of D.N. - 897, Chakali Veedhi, P.O. & P.S. & District - Gorantala, PIN - 515231, Andhra Pradesh.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Government of Bihar, Excise Department, Patna.
2. Appellate Authority-cum-Excise Commissioner, Bihar, at new Secretariat, Patna.
3. Collector, Purnia.
4. Excise Superintendent, Purnia.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar @ S.K. Arun, Advocate
For the Respondent/s : Mr. Anil Kumar Sinha, GA-1

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 11-10-2017

Heard learned counsel for the petitioner and the State.

2. The petitioner has invoked the writ jurisdiction of this Court to quash the order dated 22.11.2016 passed in connection with Excise Tr. No.128 of 2016, corresponding to Excise Case No.CI-118/2016 by the Collector, Purnia, under the Bihar Prohibition and Excise Act, 2016. By the said order the prayer of the petitioner to release the seized vehicle, i.e., Ambulance bearing registration No.AP21-TW-1735, has been refused and the referred vehicle has been confiscated.



3. Commercial quantity of liquor, which is prohibited in the State of Bihar, was recovered from the vehicle of the petitioner.

4. Submission of the learned counsel for the petitioner is that the jurisdiction of the Executive Officer to confiscate the vehicle is subjudice before a larger Bench of this Court in **LPA No.1647 of 2015 Baleshwar Roy V. The State of Bihar & Ors.** In the circumstances, till pendency of the L.P.A. aforesaid operation of the impugned order be stayed and the vehicle in question be released in favour of the petitioner as no purpose is going to be served by its continued detention in police lockup.

5. Considering the fact that authority of the executive to confiscate the seized vehicle under the Excise Act and other provisions is under consideration before a larger Bench of this Court as referred above, the operation of the impugned order shall remain stayed till further order and shall be subject to the result of L.P.A. aforesaid.

6. Since no purpose is going to be served by continued detention of the vehicle, let the same be released in favour of the petitioner by way of ad interim custody on execution of **bank guarantee of Rs.5,00,000/- (Five Lacs)** to the satisfaction of the Collector, Purnia, with condition that the petitioner would not dispose of the said vehicle without permission of the authority concerned and



shall produce as and when required by the Court.

7. With the aforesaid observation, this writ application stands disposed of. The release shall be subject to the result of the L.P.A. aforesaid.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
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