

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.958 of 2017

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1. Phool Kumar Mishra, Son of Chandra Kishore Mishra Resident of
Village Jagdishpur, Baghnagari, P.S. Sakara, District Muzaffarpur
..... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna
2. The Collector cum District Magistrate, Muzaffarpur
3. The Superintendent of Police, Muzaffarpur
4. The Circle Officer, Sakra, District Muzaffarpur
5. The Excise Superintendent, Muzaffarpur
6. The Excise Sub Inspector, Sakara Circle, Muzaffarpur
..... Respondents

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Appearance :

For the Petitioner : Mr. Hari Kishore Thakur, Adv.
For the Respondents : Mr. Anil Kumar Sinha, GA I

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

2 30-08-2017

Heard the parties.

The prayer in this writ application is for unsealing the shopping complex of the petitioner from-where allegedly few bottles of liquor was recovered and Excise Case No. 243 of 2016 was registered. Subsequently, the District Magistrate, Muzaffarpur, has started Confiscation Case No. 30 of 2016-2017.

Submission of the learned counsel for the petitioner is that the power of the executive authority to seize and confiscate is subjudice 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 considering the aforesaid pendency a Divion bench of this Court has ordered unsealing of the premise in Cr.W.J.C. No. 605 of 2016, vide Annexure 4.

In the circumstances, the operation of the confiscation proceeding be stayed which shall be subject to the result of Letters Patent Appeal, aforesaid, and by way of interim measure the shopping complex of the petitioner be ordered to be



unsealed by the respondents and possession be handed over in favour of the petitioner.

After hearing the parties and considering the aforesaid fact and circumstances, the prayer of the petitioner is allowed.

The respondents are directed to immediately unseal the said premise and hand-over it in favour of the petitioner with the condition that the petitioner shall not dispose off the shopping complex and put the same under the encumbrance. The release would 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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