

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1172 of 2016

- =====
1. Sonu Kumar, son of Sri Nawal Kishore Prasad
 2. Kedar Raut, son of Sri Bake Raut
 3. Mritunjay Kumar, son of Sri Rajendra Prasad Singh, all are residents of village Onda, P.S. Sare, district Nalanda
 4. Pramod Yadav, son of Dhoni Yadav, resident of village Onda, P.S. Sare, district Nalanda
- Petitioners

Versus

1. The State of Bihar Through The Collector, Nalanda At Bihar Sharif
 2. The Collector, Nalanda at Bihar Sharif
 3. The Additional Collector, Law, Nalanda at Bihar Sharif
 4. The District Supply Officer, Nalanda at Bihar Sharif
 5. The Block Supply Officer, Asthawan, Nalanda at Bihar Sharif
 6. The Superintendent of Police, Nalanda at Bihar Sharif
 7. The Officer-in-Charge, Laheri Police Station, Nalanda at Bihar Sharif
 8. The Bihar State Food & Civil Supplies Corporation Ltd., Bihar, Patna
- Respondents
- =====

Appearance :

For the Petitioners : Mr. Sanjay Singh, Adv.
For the State : Mr. Sanjay Kr. Giri, GP IX
For the BSFC : Mr. Shailendra Kumar Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

2 31-08-2017

Heard the parties.

The present writ application has been filed for setting aside order, dated 08.08.2016, passed by the learned Subdivisional Judicial Magistrate, Nalanda at Bihar Sharif, in connection with Laheri P.S. Case No. 180 of 2016 whereby prayer of the petitioners to release the seized rice and the vehicle whereon it was being carried vide pick-up van, bearing registration no. WB-25E-4508 has been refused on the ground that confiscation proceeding has already been initiated by the Collector, Nalanda at Bihar Sharif.

Submission of the learned counsel for the petitioners is that matter is subjudice before a larger Bench of this Court in **L.P.A. No. 1647 of 2015 (Baleshwar Roy Vrs. The State of**



Bihar & Ors.) to consider whether the executive authority can exercise power of the confiscation, which is judicial power, hence, till disposal of aforesaid issue no purpose would be served by continued detention of vehicle as well as rice.

The petitioners are ready to give proper security bond for interim release of the aforesaid articles and are ready to compensate in the event of power of confiscation is sustained by the larger Bench.

After hearing the parties and considering the fact that no purpose would be served by continued detention of vehicle and seized rice till adjudication of the aforesaid issue, let the aforesaid vehicle as well as seized rice be released in favour of the petitioners by way of interim custody on execution of surety bond of Rs. 10,00,000/- (rupees ten lakh) (not in the form of bank guarantee or cash) along with two sureties of the like amount.

The petitioners shall file undertaking that he will not use the vehicle for any illegal purpose at the time of furnishing of the bond and will not dispose of the aforesaid vehicle without the permission of the Court. The interim release shall be subject to the result of pending Letters Patent Appeal.

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

(Birendra Kumar, J)

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