

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1304 of 2017

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

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1. Munna Chaudhary, S/o Late Mahendra Chaudhary, Resident of Mohalla-Rambag, P.S.- Mithanpur, Dist.- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Inspector General of Police, Tirhut Range, Muzaffarpur.
4. The Collector-cum-District Magistrate, Muzaffarpur.
5. The Superintendent of Police, Muzaffarpur.
6. The Sub-Divisional Officer, East Muzaffarpur, District- Muzaffarpur.
7. The Circle Officer-cum-Executive Magistrate, Mushahari, District- Muzaffarpur.
8. The Excise Superintendent, Muzaffarpur.
9. The Excise Inspector, Town Anchal, District- Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar Pandey, Advocate
For the Respondent/s : Mr. Vikash Kumar, SC-11

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 29-08-2017

Heard the parties.

2. Om Namo Bhojnalay of the petitioner was sealed when some liquor was recovered and Excise Case No.132 of 2016 was registered. Thereafter, for Confiscation of the Bhojnalaya Confiscation Case No.12 of 2016-17 was initiated by the Collector, Muzaffarpur. Vide Notice dated 25.05.2016, at Annexure-1, the petitioner was asked to submit show-cause as to why the said premise be not confiscated.



3. The petitioner has challenged the aforesaid notice in this writ application on the ground 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 premises of the petitioner and handover the possession of the shop to the petitioner.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.08.2017
Transmission Date	30.08.2017

