

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.957 of 2017

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

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1. Ram Julum Mahto Son of late Ramdhari Mahto Resident of Village- Bhutahi,
P.S.- Sonbarsa, District- Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar Through The District Magistrate, Sitamarhi.
2. The Superintendent of Police Sheohar.
3. The Excise Superintendent, Sitamarhi.
4. The Officer-in-Charge, Sonbarsa, Sitamarhi.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Hans Lal Kumar, Advocate

For the Respondent/s : Mr. Anil Kumar Sinha, GA-2

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 25-07-2017

Heard learned counsel for the petitioner and the State.

Mukesh Pan Palace at Bhutahi Bazar and the husk house (Bhuskar) behind the residential house of the petitioner have been sealed as liquor was recovered and for the occurrence aforesaid Sonbarsa P.S. Case No.95 of 2016 was registered. Later on confiscation proceeding started and house has been confiscated. The confiscation order dated 23.12.2016 is under challenge in this writ application under Article 226 and 227 of the Constitution of India.

The State has filed counter affidavit.

Submission of the learned counsel for the petitioner is that the issue whether the executive authority have power to confiscate and seal the houses seized in connection with the aforesaid case which power is exercisable only by a judicial authority is



subjudice before a larger Bench of this Court in L.P.A. No.1647 of 2015. In the circumstances, till the decision of the L.P.A. aforesaid, the operation of the impugned order be stayed and the houses be unsealed by way of interim measure.

Learned counsel for the State-respondent submits that there is provision for appeal against the confiscation order under Section 92(2) of the Bihar Prohibition and Excise Act, 2016. Hence, the petitioner has got alternative remedy.

Since the authority of the confiscation officer is under challenge before a larger Bench of this Court in the referred L.P.A. It is directed that operation of the impugned order shall remain stayed till disposal of the L.P.A. aforesaid and shall be subject to the result of the L.P.A. aforesaid.

In the meantime, the authorities are directed to immediately unseal Mukesh Pan Palace and the outer husk house of the petitioner, which are under seal in connection with Sonbarsa P.S. Case No.95 of 2016.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
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