

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19877 of 2018

In
Criminal Writ Jurisdiction Case No.1951 of 2017

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Ram Tapasya Pandey son of Late Ram Chandra Pandey, resident of Village-Kasimpur, P.S. Kutumba, District-Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Excise Department
- 1A. The State of Bihar through the District Collector, Aurangabad
2. The Superintendent of Police, Aurangabad
3. The Anchaladhikari, Kutumba Block, District-Aurangabad
4. The Station House Officer, Kutumba Police Station, District-Aurangabad

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Bhola Kumar, Adv.
For the Respondent/s : Mr.P.N.Shahi, AAG 6

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

5 07-01-2019 The petitioner had initially filed a criminal writ petition bearing Cr.WJC No. 1951/2017 which was taken up for consideration on 25.01.2018 and by an order passed on the said date the vehicle of the petitioner was directed to be released provisionally, subject to the stipulations present therein. The matter was next taken up on 09.03.2018 when it was canvassed that the Collector being the executive did not have power of confiscation. Leave was prayed to challenge the vires of the provisions underlying the Bihar Prohibition and Excise Act, 2016 in so far as it vested jurisdiction upon the Collector of a



District to adjudicate on a confiscation proceeding.

This Court vide order passed 09.03.2018 allowed the petitioner to convert the criminal writ petition into a civil writ petition and as a consequence criminal writ petition bearing Cr.WJC No. 1951 of 2017 got disposed and gave rise to the present writ petition bearing CWJC No. 19877/2018. It is not in dispute that while this exercise was carried out a Full Bench of this Court while considering the issue whether or not, the Collector of District is empowered to adjudicate on a confiscation proceedings, vide judgment and order passed in LPA No. 1647/2015 (**Baleshwar Roy versus the State of Bihar & Ors.**) which was heard analogous with LPA No. 1783/2017 (**Satyanarayan Sah versus the State of Bihar & Ors.**) in context with similar provisions in Essential Commodities Act, 1955 has vide judgment and order dated 01.11.2018 upheld the vires of the provisions and consequently the power of the Collector of a District to adjudicate in confiscation proceeding. The judgment is reported in 2018(4) PLJR 970.

In view of the Full Bench Judgment of this Court in the case of **Baleshwar Roy** (supra), the issue which is sought to be canvassed in the writ petition has been rendered infructuous.

At this stage, Mr. Bhola Kumar, learned Counsel for



the petitioner informs that final order has been passed in the confiscation proceeding by the Collector on 22.06.2017.

In view of the position explained above, leave is granted to the petitioner to question the confiscation order before the appellate authority within four weeks from today and it goes without saying that in case any such appeal is preferred by the petitioner within four weeks from today accompanied with the petition for condonation of delay, the appellate authority shall consider and dispose of the same in accordance with law bearing in mind the pendency of the issue before this Court.

The writ petition is disposed of with the directions above.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Archana/
Surendra/-

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