

Court No. - 3

Case :- WRIT TAX No. - 1339 of 2023

Petitioner :- Dilavar Singh

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Brijesh Chandra Tripathi

Counsel for Respondent :- C.S.C.

Hon'ble Siddhartha Varma,J.

Hon'ble Syed Qamar Hasan Rizvi,J.

1. The petitioner was granted a licence for running a country liquor shop for the year 2023-24. It may be noted that the initial licence was granted to the petitioner in the year 2018 and then on the annual basis, it was renewed.

2. While the petitioner was running the shop, on 23.8.2023 an inspection took place and in the inspection, it was found that in the shop there were 13410 quarters of liquor. In one particular quarter, the sticker and the QR code was not found. Also, there were four quarters which were empty and a two litre cold-drink bottle was found which contained liquor. On the basis of the inspection, a show-cause notice was issued to the petitioner on 24.8.2023 and a First Information Report was also lodged.

3. The petitioner, in pursuance of the show-cause notice, replied on 4.10.2023 and he denied the allegations which were made against him. With regard to the liquor being there in a cold-drink bottle, it was stated that since the tetra-pack in which the liquor was stored was leaking, the liquor of tetra-pack was stored in a two litre cold-drink bottle. With regard to there being no sticker and the QR code, the petitioner had stated that during transportation, the sticker might have been removed and might have got stuck

somewhere else. With regard to the four empty quarters, the petitioner replied that they were sold off to various consumers. The petitioner thereafter was given a personal hearing on 3.11.2023 and upon hearing the petitioner, the impugned order dated 9.11.2023 was passed.

4. A perusal of the order dated 9.11.2023 shows that the explanation with regard to the presence of liquor in the cold-drink bottle was not dealt with at all and the punishment had been awarded by cancelling the licence of the petitioner on the basis of the fact that one particular quarter had no QR code on it and, therefore, it was found that the petitioner was to be punished for the violation of Rule 21(1)(a) of the Uttar Pradesh Excise (Settlement of Retail Sale of Country Liquor Shop) Rules, 2020 (hereinafter referred to as the "**Rules**") and also for the violation of Condition No.15 of the licence.

5. Learned counsel for the petitioner while arguing the case submitted that the petitioner had not gone in appeal as he was admitting the guilt. He, however, submitted that the oral request of the petitioner for compounding the offence of having kept a particular pouch without sticker and the QR code was not considered. He submits that as per Rule 21(4) of the Rules (under Column Nos.5 and 9), the offences as were alleged in the show-cause notice were compoundable and, therefore, the Collector/Licencing Authority, Bijnor erred in passing the order without considering the prayer of the petitioner to compound his offence.

6. Learned Additional Chief Standing Counsel Sri Nimai Das, however, opposed the prayer and he submitted that under no circumstance could the offence be compounded.

7. However, having heard learned counsel for the petitioner and the learned Additional Chief Standing Counsel, we are of the view that once the petitioner had admitted his guilt and had prayed for compounding of the offences then the Collector, Bijnor ought to have considered the prayer and ought to have passed a reasoned order with regard to the prayer of the petitioner.

8. Under such circumstances, we remand the matter back to the Collector, Bijnor. The petitioner may move a fresh application for consideration of his prayer for compounding of the offence. If any such application is filed within a period of one week from today along with a certified copy of this order, then the same shall be considered and a decision shall be taken within ten days thereafter.

9. With these observations, the writ petition stands disposed of.

Order Date :- 7.12.2023
GS

(Syed Qamar Hasan Rizvi, J.)

(Siddhartha Varma, J.)