

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4877 of 2015

=====

Baby Devi wife of Sri Ashok Kumar Gupta, Resident of Mohalla-Shikarhata, P.S.
Bikramganj District-Sasaram.

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Department of Excise and Control,
Bihar, Patna.
2. The Secretary, Excise and Prohibition Department, Bihar, Patna.
3. The Additional Excise Commissioner, Rohtas, Sasaram.
4. The District Magistrate, Rohtas, Sasaram
5. Ravi Shankar Sharma son of Jagdish Sharma resident of Village- Guvani, P.S.-
Kavalat(Gunni), District- Rohtas.

.... Respondents

=====

Appearance :

For the Petitioner/s : Mr. Samir Kumar
For the State : Mr. Vikash Kumar, AC to PAAG
For Resp.No.5 : Mr. Satyabir Bharti, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

Date: 24-04-2015

Learned counsel for the petitioner is permitted to
correct the designation of respondent no. 3 in the course of the day.

Heard learned counsel for the petitioner and learned
counsels for the State and for the private respondent no.5.

The petitioner seeks quashing of Memo No. 463 dated
20.03.2015 issued by the Assistant Excise Commissioner, Rohtas at
Sasaram by which the petitioner has been informed that upon her



being successful in the lottery held on 19.03.2015 with respect to Group No. 78, being the first candidate in the draw of lots, despite several announcements for signature on the bid sheet and deposit of advance licence fee, neither she nor her representative turned up to sign the bid sheet and deposit the advance licence fee and thereafter, the Collector directed the second winner in the draw of lots to deposit the amount which he has deposited.

The case of the petitioner is that she had applied for allotment of retail foreign Liquor shop nos. 4, 5 and 6 which have been categorized as Group no. 78 for Bikramganj region and in the draw of lots she was declared as first candidate but the respondents did not give her full time to deposit the amount and the same has been settled with the second candidate in the draw of lots. It is submitted that immediately on the next day after the draw of lots, i.e., 20.03.2015 she filed a representation before the District Magistrate, Rohtas at Sasaram but to no avail.

The further stand of the petitioner is that the respondents have not cancelled the allotment of another lottery winner, namely, Rita Devi even till 25th of March, 2015 and continued to wait for her, whereas no such similar treatment was meted out to the petitioner.

In the counter affidavit filed on behalf of the



respondents, it is stated that everything has been done in a fair and open manner and the entire process has been videographed which has been shown to the petitioner and nothing contrary to the notification or the statutory rules has been done in the present matter. It is submitted that it is evident from the videographed records also that neither the petitioner nor her representative was present at the spot when the settlement was made on 19.3.2015 at the District headquarters in the presence of the Collector, Rohtas district and despite several announcements the petitioner did not come forward.

It is also contradicted that the settlement process was not started at 4.30 P.M. and concluded at 5 P.M. rather it is stated that settlement started at 12.00 Noon and concluded at 5.00 P.M. So far as the settlement of shops of Group No. 78 is concerned, the settlement process started at 1.30 P.M. and the names of the first, second and third candidates in the draw of lots were announced. Whereas, the other two candidates signed the bid register but the petitioner did not turn up to deposit the advance licence fee. It is further submitted that the respondent no. 5 was vigilant and immediately expressed his intention to accept the settlement of the shops and deposited the advance licence fee. Thus, the settlement was rightly made in favour of the respondent no. 5.

With regard to the case of the Rita Devi, it is



submitted that she had applied for two groups, Group No. 15 and Group No. 56. In the former Group she was the sole applicant and in the latter she was the first in the draw of lots and she failed to deposit the advance licence fee in either of the cases although she had signed the bid sheet. Since the settlement of one group of shops was interdependent upon settlement of another group of shops, therefore, according to learned counsel for the State, in her case the cancellation may not have been made immediately considering the involvement of revenue to the extent of Rs. 76/- lacs as licence fee for the two groups of shops but subsequently the settlement in her favour with regard to group no. 15 was cancelled and so far as Group 56 is concerned, the same was settled with the second lottery winner Mritunjay Prasad Singh with effect from 01.04.2015. It is thus, submitted that no discrimination has been made with the petitioner.

Learned counsel for the respondent no.5 reiterates the submissions made by learned counsel for the State.

We have considered the facts and circumstances as narrated in the pleadings of the parties as also the submissions of learned counsels for the parties. It is evident that in the present matter the petitioner had not even cared to remain present on the date of bid and filed the writ application after making false allegations against the Excise authorities that the entire process was undertaken within a



period of half an hour but admittedly from the videograph of the same, it is evident that the settlement process went on for a period of nearly 5 hours from 12.00 Noon till 5.00 P.M. and even for Group 78 shops for which the petitioner had applied, the process of settlement started at 1.30 P.M. and not at 4.30 P.M.. It is evident that the petitioner sought to lay the blame of her own gross negligence upon the State-authorities but nothing has been shown as to why the authorities were required to keep on waiting until she would appear and sign the bid sheet and deposit the advance licence fee.

Considering the conduct of the petitioner, the authorities were not required to wait for her in the matter and since the respondent no. 5 on the same day expressed his williness to take the settlement of the shops in question, they have rightly settled the shops with him. So far as the case of Rita Devi is concerned, even if the authorities may have shown some laxity in her favour, it cannot improve the case of the petitioner and for her own gross negligence she cannot claim any right. It is trite law that the Court assists only those who are vigilant and not those who are negligent and guilty of laches. In the matter of settlement of Excise shops, it is clearly accepted that if the first candidate in the draw of lots does not come forward then the settlement will be made with the person who has stood second in the draw of lots and that is the requirement under the

rules of settlement as also the sale notification.

For the aforesaid reason, we find no merit in the writ application. It is, accordingly, dismissed.

(Ramesh Kumar Datta, J)

(Anjana Mishra, J)

S.Pandey/-

U			
---	--	--	--