IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4878 of 2015

==

M/s Riga Sugar Co. Ltd., Distillery Division, having registered office at 14 Netaji Subhash Road, Kolkata-700001 and having Distillery Plant at Riga, District- Sitamarthi, Bihar through its Senior General Manager, Shri Udaya Shankar Dwivedy, son of Sri Rishi Deo Dwivedy, resident of Village-Mishrouli, P.O. Bhore, District Gopalganj

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary cum Commissioner, Excise and Prohibition, Government of Bihar, Patna.
2. The Seceretary cum Commisssioner, Excise and Prohibition, Government of Bihar, Patna.
3. The Joint Excise Commissioner, Bihar, Patna.
4. The Bihar State Beverage Corporation Ltd., through its Managing Director, Bihar, Patna.
5. The Managing Director, Bihar State Beverage Corporation Ltd., Bihar, Patna.
6. The Depot Manager, Bihar State Beverage Corporation Ltd. Muzaffarpur.
7. The Depot Manager, Bihar State Beverage Corporation Ltd. Sitamarhi.
8. The Depot Manager, Bihar State Beverage Corporation Ltd. Sheohar.
9. The Collector, Muzaffarpur
10. The Collector, Sitamarhi.
11. The Collector, Sheohar.
12. The Superintendent of Excise, Muzaffarpur
13. The Superintendent of Excise, Sitamarhi.
14. The Superintendent of Excise, Sheohar

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 4874 of 2015

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M/s Ally Foods Pvt. Ltd., a Company incorporated under the Companies Act, 1956 having its registered office Guari Shankar Colony, Gaighat, Gulzarbagh, Patna-800007 through its Director Sanjay Kumar Gautam son of Late Ram Nagina Dwivedi resident of Anisabad P.S. Gardanibagh, District- Patna

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary cum Commissioner, Excise and Prohibition, Government of Bihar, Patna
2. The Secretary cum Commissioner, Excise and Prohibition, Government of Bihar, Patna
3. The Joint Excise Commissioner, Bihar, Patna.
4. The Bihar State Beverage Corporation Ltd., through its Managing Director, Bihar, Patna.
5. The Managing Director, Bihar State Beverage Corporation Ltd., Bihar, Patna.
6. The Depot Manager, Bihar State Beverage Corporation Ltd. Darbhanga.
7. The Collector, Darbhanga
8. The Superintendent of Excise, Darbhanga

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 7115 of 2015

===

M/s Welcome Distilleries Pvt. Ltd., a registered company incorporated under the Companies Act, 1956 having its registered office at 2nd Floor, Super Market, Agrasen Chowk, Bilashpur, Chattisgarh and its distillery at Chherkabandha, Thana Kota, District Bilaspur, Chasttisgarh through its Assistant General Manager Shri Sanjay Pandey, son of Sri R L Pandey, resident of H-2/100, Narmada Nagar, Bilaspur, Chattisgarh

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary cum Commissioner, Excise and Prohibition, Government of Bihar, Patna
2. The Secretary cum Commissionr, Excise and Prohibition, Government of Bihar, Patna.
3. The Joint Excise Commissioner, Bihar, Patna.
4. The Bihar State Beverage Corporation Ltd., through its Managing Director, Bihar, Patna.
5. The Managing Director, Bihar State Beverage Corporation Ltd., Bihar, Patna.
6. The Depot Manager, Bihar State Beverage Corporation Ltd. Rohtas
7. The Collector, Rohtas
8. The Collector, Kaimur
9. The Superintendent of Excise, Rohtas
10. The Superintendent of Excise, Kaimur

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 4924 of 2015

===

M/s Shipra Beverages Pvt. Ltd., a Company incorporated under the Companies Act, 1956 having its registered office at Karmalichak, Begumpur, Patna City, District Patna through its Director Vishal Kumar Son of Late Ashok Kumar, resident of Company Sarai, Ward No.8, Shanti Nagar, P.S. Chowk Bazar, District Rohtas, Sasaram

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary cum Commissioner, Excise and Prohibition, Government of Bihar, Patna
2. The Secretary cum Commissioner, Excise and Prohibition, Government of Bihar, Patna.
3. The Joint Excise Commissioner, Bihar, Patna.
4. The Bihar State Beverage Corporation Ltd., through its Managing Director, Bihar, Patna.
5. The Managing Director, Bihar State Beverage Corporation Ltd., Bihar, Patna.
6. The Depot Manager, Bihar State Beverage Corporation Ltd. Gaya
7. The Depot Manager, Bihar State Beverage Corporation Ltd. Aurangabad
8. The Collector, Gaya
9. The Collector, Aurangabad
10. The Assistant Commissioner of Excise, Gaya
11. The Superintendent of Excise, Aurangabad

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 4942 of 2015
===
M/s Doon Valley Distilleries (A.D.)., a registered partnership firm , having its registered Office Kuanwala , PO Harrawal , Dehradun (Uttrakhand) through its Authorised Signatory Dhananjay Pandey son of Late Radheyshyam Pandey, resident of village - Netwar, PO Belaw, PS Darawli, District- Siwan (Bihar).

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary Cum Commissioner, Excise and Prohibition, Government of Bihar, Patna.
2. The Secretary cum Commissioner, Excise and Prohibition, Government of Bihar, Patna.
3. The Joint Excise Commissioner, Bihar, Patna.
4. The Bihar State Beverage Corporation Ltd. , through its Managing Disrector, Bihar, Patna.
5. The Managing Director , Bihar State Beverage Corporation Ltd. , Bihar , Patna.
6. The Depot Manager , Bihar State Beverage Corporation Ltd. , Saharsa .
7. The Depot Manager , Bihar State Beverage Corporation Ltd. , Supaul.
8. The Depot Manager , Bihar State Beverage Corporation Ltd. , Madhepura.
9. The Collector , Saharsa
10. The Collector , Supaul
11. The Collector , Sheikpura
12. The Collector, Madhepura
13. The Superintendent of Excise, Supaul
14. The Superintendent of Excise, Sheikpura
15. The Superintendent of Excise, Madhepura

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 4943 of 2015
===
M/s Cooperative Company Ltd., a Company incorporated undenr the Companies Act, 1956 having its registerd office Nawabganj , Saharanpur, Uttar Pradesh - 247001 through its Authorised Signatory Baccha Pandey son of Late Radheyshyam Pandey, resident of village - Netwar, PO Belaw, PS Darawli, District- Siwan (Bihar).

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary Cum Commissioner, Excise and Prohibition, Government of Bihar, Patna.
2. The Secretary cum Commissioner, Excise and Prohibition, Government of Bihar, Patna.
3. The Joint Excise Commissioner, Bihar, Patna.
4. The Bihar State Beverage Corporation Ltd. , through its Managing Disrector, Bihar, Patna.
5. The Managing Director , Bihar State Beverage Corporation Ltd. , Bihar , Patna.
6. The Depot Manager , Bihar State Beverage Corporation Ltd. , Nawadah.
7. The Depot Manager , Bihar State Beverage Corporation Ltd. , Jehanabad.
8. The Depot Manager , Bihar State Beverage Corporation Ltd. , Arwal.
9. The Depot Manager , Bihar State Beverage Corporation Ltd. , Sheikpura

10. The Collector , Nawadah
11. The Collector , Jehanabad
12. The Collector , Sheikpura
13. The Collector, Arwal
14. The Superintendent of Excise, Nawadah
15. The Superintendent of Excise, Jehanabad
16. The Superintendent of Excise, Arwal
17. The Superintendent of Excise, Sheikpura

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 4944 of 2015

==

M/s Hindustan Sjpirits Ltd., a Company incorporated under the Companies Act, 1956 having its registered office at D-14, Preet Vihar, 2nd Floor, New Delhi through its Authorised Signatory Hare Ram Pandey son of Late Mukhti Nath Pandey resident of Village Bahaliya, P.S. Ghutni , District- Siwan

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary Cum Commissioner, Excise and Prohibition, Government of Bihar, Patna.
2. The Secretary cum Commissioner, Excise and Prohibition, Government of Bihar, Patna.
3. The Joint Excise Commissioner, Bihar, Patna.
4. The Bihar State Beverage Corporation Ltd. , through its Managing Disrector, Bihar, Patna.
5. The Managing Director , Bihar State Beverage Corporation Ltd. , Bihar , Patna.
6. The Depot Manager , Bihar State Beverage Corporation Ltd. , Begusarai
7. The Depot Manager , Bihar State Beverage Corporation Ltd. , Khagaria.
8. The Collector , Begusarai
9. The Collector , Khagaria
10. The Superintendent of Excise, Begusarai
11. The Superintendent of Excise , Khagaria.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 5101 of 2015

==

M/s Globus Spirits Ltd., a Company incorporated under the Companies Act, 1956 having its registered officer at A-46, New Friends Colony, (East) New Delhi through its Assistant Manager Administration Mr. Pritam Singh

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary cum Commissioner, Excise and Prohibition, Government of Bihar, Patna
2. The Secretary cum Commissioner, Excise and Prohibition, Government of Bihar, Patna.
3. The Joint Excise Commissioner, Bihar, Patna.
4. The Bihar State Beverage Corporation Ltd., through its Managing Director, Bihar, Patna.
5. The Managing Director, Bihar State Beverage Corporation Ltd., Bihar, Patna.

6. The Depot Manager, Bihar State Beverage Corporation Ltd. Patna
7. The Collector, Patna
8. The Superintendent of Excise, Patna

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 4875 of 2015

===

M/s Spicy Beverage Pvt. Ltd., a Company incorporated under the Companies Act, 1956 having its registered office at Gandhi Road, Dhansar, Dhanbad, Jharkhad through its Director Kamlesh Kumar Sinha, son of Sri Lakshmi Narain Sinha, resident of Begampur, Karmali Chak, PS Chawk, District Patna

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary cum Commissioner, Excise and Prohibition, Government of Bihar, Patna
2. The Secretary cum Commissioner, Excise and Prohibition, Government of Bihar, Patna.
3. The Joint Excise Commissioner, Bihar, Patna.
4. The Bihar State Beverage Corporation Ltd., through its Managing Director, Bihar, Patna.
5. The Managing Director, Bihar State Beverage Corporation Ltd., Bihar, Patna.
6. The Depot Manager, Bihar State Beverage Corporation Ltd. Vaishali.
7. The Depot Manager, Bihar State Beverage Corporation Ltd. Chapra.
8. The Collector, Vaishali.
9. The Collector, Chapra
10. The Superintendent of Excise, Vaishali.
11. The Superitendent of Excise, Chapra

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 4876 of 2015

===

M/s Essveegee Breweries Pvt. Ltd., a Company incorporated under the Companies Act, 1956 having its registered office at 3rd Floor, Antara Tower, Opp. Sadar Thana, Pan bazar, Guwahati, Assam through its authorized signatory Manish Pandey, son of Umesh Pandey resident of Ward no.6, Salahabad, PS. Salempur, District-Deoriya (U.P.)

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary cum Commissioner, Excise and Prohibition, Government of Bihar, Patna
2. The Secretary cum Commissioner, Excise and Prohibition, Government of Bihar, Patna.
3. The Joint Excise Commissioner, Bihar, Patna.
4. The Bihar State Beverage Corporation Ltd., through its Managing Director, Bihar, Patna.
5. The Managing Director, Bihar State Beverage Corporation Ltd., Bihar, Patna.
6. The Depot Manager, Bihar State Beverage Corporation Ltd. Patna.
7. The Collector, Patna
8. The Assistant Commissioner of Excise, Patna

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 4918 of 2015

M/s K.M. Sugar Mills Ltd., a Company incorporated under the Companies Act, 1956 having its registered office at 11, Moti Bhawan, Collectorganj , Kanpur , U.P. through its General Manager Mr. Rajendra Kumar Gupta S/o Late Ram Kishore Gupta , resident of Bankat , Motihari, East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary Cum Commissioner, Excise and Prohibition, Government of Bihar, Patna.
2. The Secretary cum Commissioner, Excise and Prohibition, Government of Bihar, Patna.
3. The Joint Excise Commissioner, Bihar, Patna.
4. The Bihar State Beverage Corporation Ltd. , through its Managing Disrector, Bihar, Patna.
5. The Managing Director , Bihar State Beverage Corporation Ltd. , Bihar , Patna.
6. The Depot Manager , Bihar State Beverage Corporation Ltd., East Champaran , Motihari.
7. The Depot Manager , Bihar State Beverage Corporation Ltd. , West Champaran, Betia.
8. The Collector , East Champaran , Motihari.
9. The Collector , West Champaran , Betia.
10. The Superintendent of Excise, East Champaran , Motihari.
11. The Superintendent of Excise , West Champaran , Betia.

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 4919 of 2015

Sanjay R. Kumar son of Shri Raghunath Prasad resident of Balkishunganj , P.S. Gulzarbagh , District Patna

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary Cum Commissioner, Excise and Prohibition, Government of Bihar, Patna.
2. The Secretary cum Commissioner, Excise and Prohibition, Government of Bihar, Patna.
3. The Joint Excise Commissioner, Bihar, Patna.
4. The Bihar State Beverage Corporation Ltd. through its Managing Disrector, Bihar, Patna.
5. The Managing Director , Bihar State Beverage Corporation Ltd. , Bihar , Patna.
6. The Depot Manager , Bihar State Beverage Corporation Ltd. , Madhubani
7. The Depot Manager , Bihar State Beverage Corporation Ltd. , Samastipur
8. The Collector , Madhubani
9. The Collector, Samastipur
10. The Superintendent of Excise, Madhubani
11. The Superintendent of Excise, Samastipur.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 4920 of 2015

==

M/s Pashupatinath Distributors Pvt. Ltd., a Company incorporated under the Companies Act, 1956 having its registered office at 2nd Floor, Chandi Vyapar Bhawan, Exhibition Road, Patna through its Director Lallan Prasad. Son of Shri Ramdhyan Prasad. Resident of B/118, Housing Colony, P.S.- Kankarbagh, District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary cum Commissioner, Excise and Prohibition, Government of Bihar, Patna.
2. The Secretary cum Commissioner, Excise and Prohibition, Government of Bihar, Patna.
3. The Joint Excise Commissioner, Bihar, Patna.
4. The Bihar State Beverage Corporation Ltd., through its Managing Director, Bihar, Patna.
5. The Managing Director, Bihar State Beverage Corporation Ltd., Bihar, Patna.
6. The Depot Manager, Bihar State Beverage Corporation Ltd. Bhojpur.
7. The Depot Manager, Bihar State Beverage Corporation Ltd. Buxar.
8. The Collector, Bhojpur.
9. The Collector, Buxar.
10. The Superintendent of Excise, Bhojpur.
11. The Superintendent of Excise, Buxar.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 4921 of 2015

==

M/s Trigger Goods Pvt. Ltd., a Company incorporated under the Companies Act, 1956 having its registered office at Room No. 218, 21, Hemant Basu Sarani, Kolkata, Local Office at Tripolia, P.S.- Alamganj, Patna - 800007, through its Director Kajal Karmkar. Resident of School Para, P.S.- Islampur, District - Uttar Dinajpur, West Bengal.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary cum Commissioner, Excise and Prohibition, Government of Bihar, Patna.
2. The Secretary cum Commissioner, Excise and Prohibition, Government of Bihar, Patna.
3. The Joint Excise Commissioner, Bihar, Patna.
4. The Bihar State Beverage Corporation Ltd., through its Managing Director, Bihar, Patna.
5. The Managing Director, Bihar State Beverage Corporation Ltd., Bihar, Patna.
6. The Depot Manager, Bihar State Beverage Corporation Ltd. Siwan.
7. The Depot Manager, Bihar State Beverage Corporation Ltd. Gopalganj.
8. The Collector, Siwan.
9. The Collector, Gopalganj.
10. The Superintendent of Excise, Siwan.
11. The Superintendent of Excise, Gopalganj.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 4923 of 2015

==

M/s Rana Sugars Ltd., a Company incorporated under the Companies Act, 1956 having its registered office at S.C.O. 49 and 50 Sector 8 C, Madhyamarg, Chandigarh through its Authorised Signatory Santosh Kumar, aged about 52 years. Son of Late Bankey Lal Singh. Resident of 101, Ashoka Palace, Exhibition Road, P.S.- Gandhi Maidan, District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary cum Commissioner, Excise and Prohibition, Government of Bihar, Patna.
2. The Secretary cum Commissioner, Excise and Prohibition, Government of Bihar, Patna.
3. The Joint Excise Commissioner, Bihar, Patna.
4. The Bihar State Beverage Corporation Ltd., through its Managing Director, Bihar, Patna.
5. The Managing Director, Bihar State Beverage Corporation Ltd., Bihar, Patna.
6. The Depot Manager, Bihar State Beverage Corporation Ltd. Nalanda.
7. The Collector, Nalanda.
8. The Superintendent of Excise, Nalanda.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rakesh Diwedi, Sr. Advocate
Mr. Jitendra Singh, Sr. Advocate
Mr. Satyabir Bharti, Advocate
Mr. Harsh Singh, Advocate
Mr. Ajay Kumar Sinha, Advocate
Mrs. Manju Jha, Advocate

For the State : Mr. Lalit Kishore, PAAG
Mr. Vikash Kumar, AC to PAAG

For BSBCL : Mr. Vikas Kumar, Advocate
Mr. Girijesh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
and
HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

Date: 17-09-2015

Heard learned counsels for the petitioners and learned Principal Additional Advocate General for the State.

All the writ applications broadly raise common issues and they have accordingly been heard together and with the consent of the parties are being disposed of at the stage of admission itself.

The writ applications have been filed claiming various reliefs but ultimately learned counsels for the petitioners have confined their submissions to certain specific matters.

The first part of the challenge on behalf of the petitioners is to the fixation of MGQ of the country liquor which, they say, is contrary to Rule 3(m) read with Rule 19 of the Bihar Excise (Settlement of Licenses for Retain Sale of Country/Spiced Country Liquor/Foreign Liquor/Beer and Composite Liquor Shop) Rules, 2007 (in short "The Rules") read with Clause 4 of the policy decision as contained in the Resolution dated 24.10.2013 of the State Government.

The second objection of learned counsels for the petitioners is that the MGQ of country liquor cannot be fixed by calculating the quota of spiced country liquor.

It is the further contention of learned counsels that the quota of unsettled shops should also be excluded while calculating MGQ for the zones in question.

The last part of the objection is with regard to the effective date for the start of production of country liquor in PET bottles which the petitioners of zone nos. 5,8,9,11 and 13 claim that it should be from 1st February, 2015, whereas the petitioners of zone No. 4 claims that it should be with effect from 15.3.2015.

As a consequential relief the petitioners further claim for adjustment of the amount actually paid by them on the basis of proper fixation of the MGQ.

The State Government by Resolution dated 24.10.2013 came out with a policy decision for wholesale supply of country made liquor in the PET bottles. It was provided in the said Resolution that the said policy decision was to be implemented with effect from 1.4.2014. It was stated therein that the exclusive privilege for grant, manufacture and supply of country liquor in PET bottles to Bihar State Beverage Corporation Limited (in short, "The Corporation") would be granted to agents selected through tender process. The tenders were to be granted for a period of five years and for the said purpose the entire State was divided into 17 zones and the successful tenderers were required to establish plants for manufacture of PET bottles and bottling of country liquor. The base rate was to be fixed by an Empowered Committee headed by the Member, Board of Revenue who would fix the same for 200 ML and 400 ML in PET bottles after taking into consideration the rate of rectified spirit, transport charges and other expenses for reaching the same in the Warehouses of the Corporation, upon which VAT shall be separately levied. The tenderers were to file their tenders keeping the said base rate in mind. The difference between the base rate and the lower rates to be quoted by the tenderers shall have to be paid by the successful tenderers to the State Government in four equal instalments in the course of the year, which instalments were to be deposited on 15th June, 15th September, 15th December and 15th March. It was further stated that the L-1 tenderers who had quoted the minimum rate would be granted the preference in allotment of zone and so on L-2 and other tenderers. It was specifically provided in Clause 4 of the policy decision that the MGQ of each district and Zone would be determined on the basis of the actual consumption of the previous year and after making an increase in the previous year's consumption, the MGQ for the next year shall be determined by the Department.

Pursuant to the aforesaid policy decision notice inviting tenders dated 31.1.2014 was issued by the State Government in the State Gazette dated 3.2.2014. Apart from indicating the other details, the MGQ for each of the zones, annual and monthly, for the year 2013-14 was also stated in the Annexure-3 of the NIT itself. The petitioners applied for and are the successful tenderers of their respective zones except for Zone Nos. 4 and 15 in which the provisional grant given earlier was cancelled after the concerned tenderers had lost their cases before the Supreme Court. M/s. Welcome Distilleries Pvt. Ltd. which is the successful tenderer of Zone No. 4 in the subsequent tender, has filed CWJC No. 7115/2015 raising an additional plea that the effective date of grant should be extended in its case to 15.3.2015.

There was an earlier round of litigation between the parties on the ground that the grantee had been directed to make payment of the second instalment despite the fact that the manufacture and supply of country liquor in PET bottles had not become operational. By order dated 28.7.2014 passed in CWJC No. 11120/2014 and its analogous cases, it was held by this Court that in the backdrop of the facts and circumstances of the case such demand was wholly arbitrary and unjust and it was accordingly quashed and set aside with a direction to the State Government to reschedule the payment of the differential amount in accordance with the date of manufacture and supply of country liquor as may be decided by it. Ultimately, the State Government came out with a notification dated 12.12.2014 fixing the date of supply from 1.1.2015 and it is the plea of the petitioners that prior to the issuance of the said order dated 12.12.2014 the impression given to them by the Department was that the stop gap arrangement for supply of country liquor in sachets would continue till 31st of March, 2015 if they were not in a position to start the production immediately. Hence, representations were made to the State Government and accordingly, by order dated 31.12.2014 passed by the Excise Commissioner-cum-Secretary, Excise Department, the date of start production of country liquor in PET bottles in Zone Nos. 4,5,8,9,11,13 and 15 was extended to 1.2.2015. Despite the said order, it is alleged by the petitioners that the Department is demanding a differential for the base rate and the tender price from the petitioners from 1.1.2015 itself except from the petitioner of zone No. 4 as against which the demand is for payment of differential amount from 1.2.2015.

The grievance of the petitioners is that even after 1.2.2015, when the petitioners started to supply the country liquor in terms of the monthly MGQ, as many retail shops having remained unsettled for the entire year, 24 groups of shops having remained unsettled for the year 2014-15 and which figure goes to 35 unsettled shops for the year 2015-16, the Corporation was not in a position to accept the supplies and the transport vehicles of the petitioners loaded with country liquor in PET bottles in several cases returned by the Depot Managers of the Warehouses of the Corporation. Certain letters have been brought on the record in this regard by the petitioners. It is thus the stand of the petitioners that for default of the Corporation and its inability to take supplies, which the petitioners were prepared to give, the petitioners cannot be saddled with the loss as they were in any case required to pay the difference between the rates quoted by them and the base rate on the basis of MGQ because in terms of the policy decision and the NIT, whatever be the quantum of supply the difference between the tender rate and the base rate had to be paid on the MGQ and only in case there was any supply in excess of the MGQ, that the difference on the basis of actual supply was to be paid.

In this regard, it is submitted that apart from non-settlement of shops the shortfall in the supply had also occasioned due to insufficient warehousing facility available with the Corporation. It is submitted by learned counsels for the petitioners that the Corporation itself is an agent of the State having been granted the exclusive privilege of receiving supplies from the wholesale manufacturers and distributors and issuing the liquor to the retail shops. Thus, it is urged that the inability of the Corporation for whatever reasons, whether on account of insufficient warehouses or insufficient demand to take the supplies, cannot be used by the State to penalize the petitioners for no fault of theirs.

The main grievance of the petitioners however, appears to be on two counts. First, it is submitted by them that when the NIT was issued, they were not in a position to know that the MGQ for the country liquor for the year 2013-14 as stated in Annexure-3 of the NIT included MGQ of spiced country liquor also, for which there is separate process for settlement and grant of privilege at the stage of wholesale manufacturer and supply. It is, thus, submitted that it was unconscionable on the part of the State to have included the quantity of spiced country liquor while fixing the MGQ for country liquor for each of the zones in question.

The other part of the grievance of the petitioners is that while the policy decision in Clause 4 made it clear that the MGQ was to be fixed every year on the basis of actual consumption of the previous year and the increase in the MGQ was to be made on the said basis by the Department but on the contrary instead of any increase in the consumption, there has been continuous fall in consumption which are obvious from the figures of the years 2012-13, 2013-14 and 2014-15. Thus for Saran district, it is stated that for the year 2012-13 MGQ of country liquor and spiced country liquor was 24,84,792 LPL whereas the actual sale of country liquor was to the extent of 23,66,901.52 LPL which was 95% of the MGQ. For the year 2013-14 the MGQ was enhanced by 15% to 28,57,512 LPA whereas in the said year the real sale could be only to the extent of 21,15,275.44 LPL which was 74% of the MGQ. Despite the sharp fall in the sale during the successive years, again in the year 2014-15 the MGQ was retained at the same figure although the actual sale has further declined to 20,69,591.28 LPL which is 72% of the MGQ. Not taking any lesson from the continuous decline, again for the year 2015-16 the MGQ has been further enhanced by 51.87% to 31,43,256 as compared to the actual consumption for the previous year. On the basis of the aforesaid figures it is submitted that completely imaginary and unjustifiable manner has been adopted by the respondents for fixing the MGQ which is in gross violation of their own policy decision which would be binding not only upon the petitioners who participated in the NIT on the basis of the said policy decision but also upon the respondents who had issued the said policy decision.

It is the stand of learned counsels for the petitioners that the same situation prevailed with regard to other zones also and similarly MGQ has been continued to be enhanced despite actual fall in consumption in the said zones, completely unmindful of the policy decision. It is urged by learned counsels for the petitioners that the whole purpose is to extract unreasonable amounts of differential price between the tender rate and the base rate by raising the MGQ whereas the respondents are not in a position to lift the quantity of MGQ.

In this regard, an alternative prayer was made by the petitioners that in case the respondents are bent upon violating not only their policy norms or principles of reasonableness and fairness in the matter then if they fix such imaginary MGQ in that case they should be directed by this Court to lift the entire quantity of MGQ and pay the price of the same to the petitioners so that the petitioners are not put to loss on account of their wholly arbitrary action. This prayer has been made specially on account of the assertion of the petitioners that the Corporation makes payment to the petitioners not on the basis of supplies made by them but only as per the payments received by the Corporation from the retail shops of the quantity of country liquors lifted by them, which has seriously jeopardized the finances of the petitioners. The said fact is not controverted by the Corporation in the counter affidavit filed on its behalf.

It is further submitted by learned counsels that with regard to zone Nos. 5,8,9,11 and 13 the State Government by order dated 31.1.2014 extended the date of supply with effect from

1.2.2015. The said extension would be meaningless considering the fact that the differential rate have been charged with effect from 1.1.2015 itself which is wholly unreasonable and contrary to the aforesaid decision of the State Government taken on 31.12.2014 and direction should be issued to the respondents to refund/adjust the amount of differential rate paid for the month of January, 2015.

Another stand on behalf of the petitioners is that since the NIT does not talk of the MGQ to be fixed from year to year and it is only stated in the policy decision and the actual MGQ is given in the NIT then the respondents cannot be permitted to revise it.

In support of their aforesaid stand, learned counsels rely upon the decision of the Supreme Court in the case of State of Bihar and ors. Vs. Suprabhat Steel Ltd. & Ors: (1999) 1 SCC 31, in para 7 of which it has been held as follows:-

> "7. Coming to the second question, namely, the issuance of notification by the State Government in exercise of power under Section 7 of the Bihar Finance Act, it is true that issuance of such notifications entitles the industrial units to avail of the incentives and benefits declared by the State Government in its own industrial incentive policy. But in exercise of such power, it would not be permissible for the State Government to deny any benefit which is otherwise available to an industrial unit under the incentive policy itself. The industrial incentive policy is issued by the State Government after such policy is approved by the Cabinet itself. The issuance of the

notification under Section 7 of the Bihar Finance Act is by the State Government in the Finance Department which notification is issued to carry out the objectives and the policy decisions taken in the industrial policy itself. In this view of the matter, any notification issued by government order in exercise of power under Section 7 of the Bihar Finance Act, if is found to be repugnant to the industrial policy declared in a government resolution, then the said notification must be held to be bad to that extent. In the case in hand, the notification issued by the State Government on 4-4-1994 has been examined by the High Court and has been found, rightly, to be contrary to the Industrial Incentive Policy, more particularly, the policy engrafted in clause 10.4(i)(b). Consequently, the High Court was fully justified in striking down that part of the notification which is repugnant to sub-clause (b) of clause 10.4(i) and we do not find any error committed by the High Court in striking down the said notification. We are not persuaded to accept the contention of Mr. Dwivedi that it would be open for the Government to issue a notification in exercise of power under Section 7 of the Bihar Finance Act, which may override the incentive policy itself. In our considered opinion, the expression "such conditions and restrictions as it may impose" in sub-Section (3) of Section 7 of the Bihar Finance Act will not authorize the State Government to negate the incentives and benefits which any industrial unit would be otherwise

> entitled to under the general policy resolution itself. In this view of the matter, we see no illegality with the impugned judgment of the High Court in striking down a part of the notification dated 4-4-1994."

Learned counsels also rely upon another decision of the Supreme Court in the case of Kerela Samsthana Chethu Thozhilali Union Vs. State of Kerala & Ors.: (2006) 4 SCC 327, paras 20,23 and 24 of which are quoted below.

> "20. In Har Shankar V Dy. Excise and Taxation Commr.: 2(1975) 1 SCC 737 whereupon Mr. Chacko placed reliance, it was stated: (SCC p. 742, para-5)
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> > "5. Auctions for granting the right to sell country liquor for the year 1968-69 were initially held in various districts of Punjab on or about 8-3-1968 in pursuance of conditions of auction framed on 19-2-1968. Those auctions became ineffective by reason of a judgment dated 12.3.1968 of a Division Bench of the High Court of Punjab and Haryana in Jage Ram V. State of Haryana: CW No. 1376 of 1967 dated 12.3.1968 (P&H). Following an earlier judgment in Bhajan Lal V. State of Punjab: CW No. 538 of 1966 decided on 6.2.1967 (P&H) the High Court took the view that the licence fee realized through the medium of auctions was really in the nature of 'still-head duty' and that the licensees could not be called upon by the Government to pay

still-head duty on the liquor quota which, under the terms of auctions, they were bound to lift but which in fact was not lifted by them."

23. In State of M.P. Vs. Nandlal Jaiswal: (1996) 4 SCC 566 this Court opined: (SCC pp.604-05, para 33)

"The State under its regulatory power has the power to prohibit absolutely every form of activity in relation to intoxicants – its manufacture, storage, export, import, sale and possession. No one can claim as against the State the right to carry on trade or business in liquor and the State cannot be compelled to part with its exclusive right or privilege of manufacturing and selling liquor. But when the State decides to grant such right or privilege to others the State cannot escape the rigour of Article 14. It cannot act arbitrarily or at its sweet will. It must comply with the equality clause while granting the exclusive right or privilege of manufacturing or selling liquor. It is, therefore, not possible to uphold the contention of the State Government and Respondents 5 to 11 that Article 14 can have no application in a case where the licence to manufacture or sell liquor is being granted by the State Government. The State cannot ride roughshod over the requirement of that article."

24. In Khoday Distilleries Ltd. V. State of Karnataka: (1995) 1 SCC 574 a Constitution Bench of this Court

upon referring to a large number of decisions summed up its findings in the following terms : (SCC p. 609, para 60)

> “60. (e) For the same reason, the State can create a monopoly either in itself or in the agency created by it for the manufacture, possession, sale and distribution of the liquor as a beverage and also sell the licences to the citizens for the said purpose by charging fees. This can be done under Article 19(6) or even otherwise.
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> (f) For the same reason, again, the State can impose limitations and restrictions on the trade or business in potable liquor as a beverage which restrictions are in nature different from those imposed on the trade or business in legitimate activities and goods and articles which are res commercium. The restrictions and limitations on the trade or business in potable liquor can again be both under Article 19(6) or otherwise. The restrictions and limitations can extend to the State carrying on the trade or business itself to the exclusion of and elimination of others and/or to preserving to itself the right to sell licences to do trade or business in the same, to others.
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> (g) when the State permits trade or business in the potable liquor with or without limitation, the citizen has the right to carry on trade or business subject to the limitations, if any, and the State cannot make discrimination between the citizens who are qualified to carry on the trade or business.”

They have also placed reliance upon the decision of the Apex Court in the case of Khoday Distrilleries Ltd. Vrs. State of Karnataka & Ors: (1995) 1 SCC 574 relying upon paragraphs 46 and 60(h) which are as follows:

> "46. In Doongaji & Co. (I) V. State of M.P.: 1991 Supp (2) SCC 313: AIR 1991 SC 1947 a Bench of two learned Judges while dealing with the question whether, after the expiration of the licence given to the appellant, fixation of the prices of the plant and machinery of the distillery and the attached warehouses and stock-in-trade and payment thereof to the appellant, was a condition precedent to taking possession thereof and giving delivery to the new licensee which was a State-owned Corporation found on facts that the appellant had no exclusive possession of the distillery which always remained with the Excise Department and the appellant was only working out the contract of manufacturing rectified spirit in the distillery and wholesale supply of the same to the retail vendors within the area attached to it. Due to non-cooperation of the appellant, possession was taken and delivered to the incoming licensee as per the Rules and the appellant was not entitled to restitution. In that connection, the Court observed as follows: (SCC p.320, para 15)
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> > "It is settled law by several decisions of this Court that there is no fundamental right to a citizen to carry on trade or business in liquor. The State under its regulatory power, has power to prohibit absolutely any

form of activity in relation to an intoxicant, its manufacture, possession, import and export. No one can claim, as against the State, the right to carry on trade or business in any intoxicants, nor the State be compelled to part with its exclusive right or privilege of manufacture, sale, storage of liquor. Further when the State has decided to part with such right or privilege to the others, then State can regulate consistent with the principles of equality enshrined under Article 14 and any infraction in this behalf at its pleasure is arbitrary violating Article 14. Therefore, the exclusive right or privilege of manufacture, storage, sale, import and export of the liquor through any agency other than the State would be subject to rigour of Article 14."

60. (h) The State can adopt any mode of selling the licences for trade or business with a view to maximize its revenue so long as the method adopted is not discriminatory."

They further placed reliance upon a decision of the Supreme Court in the case of Gupta Modern Breweries Vs. State of J & K & Ors: (2007) 6 SCC 317, paras 8 and 10 of which are quoted below.

"8. Before we proceed further to answer the aforesaid questions, we may at this stage, point out that this Court held that a trade in liquor is res extra commercium and, therefore, not entitled to the protection of Article 19(1)(g), but any licensing, regulation or imposition in respect of the liquor trade cannot be arbitrary and discriminatory.

10. In Khoday Distilleries Ltd. V. State of Karnataka (1996) 10 SCC 304 it is said in para 13: (SCC p. 314)

> "Although the protection of Article 19(1)(g) may not be available to the appellants, the rules must, undoubtedly, satisfy the test of Article 14, which is a guarantee against arbitrary action. However, one must bear in mind that what is being challenged here under Article 14 is not executive action but delegated legislation. The tests of arbitrary action which apply to executive actions do not necessarily apply to delegated legislation. In order that delegated legislation can be struck down, such legislation must be manifestly arbitrary; a law which could not be reasonably expected to emanate from an authority delegated with the law-making power."

It is, therefore, clear that even in dealing with the liquor trade, the Government cannot be manifestly unjust or arbitrary."

Lastly learned counsels for the petitioners rely upon the case of Kuldeep Singh Vs. Govt of NCT of Delhi: (2006) 5 SCC 702, in paras 16 and 20 of which it has been held as follows:

> "16. We, however, must express our dissatisfaction as regards the manner in which the cases have been dealt with. If a policy decision had been taken by a competent authority viz. the Finance Minister as far back on 9-3-2005, we fail to see any reason as to how the officials of the State could proceed with the processing of the

applications filed by the applicants even thereafter. The explanation sought to be offered that the same was done on the premise that the Cabinet may not approve the same, in our opinion, is an afterthought. Although, other applications were processed, the applications filed by the appellants who had filed writ applications before the Delhi High Court were not considered. It is beyond any cavil that the cases of the applicants were required to receive due consideration at the hands of the competent authority along with those who were similarly situated.

20. Here, however, the State had made a change in its policy decision of opening the doors to the private entrepreneurs evidently with a view to earn more revenue. It represented to the applicants that their cases would be considered on their own merits. Such consideration was, thus, required to be fair and reasonable. Although dealing in liquor as has rightly been submitted by the learned Additional Solicitor General is not a fundamental right, but indisputably the equality clause contained in Article 14 of the Constitution of India would apply."

It is urged by learned counsels on the basis of the aforesaid decisions that even in the case of liquor while the State may have the exclusive privilege for dealing with the same but once it decides to make a grant then it is bound by the principles of fairness, non-arbitrariness and non-discrimination as laid down in Article 14 of the Constitution of India. It is submitted that payment of differential rate is only of the excess amount paid to the petitioners by the Beverages Corporation being the difference between the rates quoted by the petitioners and the higher base rate as fixed by the Empowered Committee and thus the same cannot be used in an unfair manner by increasing MGQ without having any regard to the ground realities.

In CWJC No. 7115/2015, it is the further contention of learned counsel that in the said matter, the grant had actually been made on 13.10.2014, much later than that of the other grantees, and establishing the plant for manufacture of PET bottles and country liquor within six months was impossible and in this context learned counsels rely upon a decision of this Court dated 28.7.2014 in the earlier round of litigation between the tenderers and the State Government which had been one of the grounds for allowing the said writ application. In this regard learned counsel refers to the letter dated 28.1.2015 issued by the Excise Commissioner to the Collectors of Rohtas (Sasaram), Kaimur, Kishanganj, Katihar, Purnea and Araria by which direction has been issued to continue with the supply of country liquor in sachets till 28.2.2015 under the pre-existing provisions. It is thus, urged by learned counsel that the same principle as laid down by this Court in the order dated 28.7.2014 in the earlier round of litigation would apply to the case of this petitioner also and there would be no loss of revenue occasioned to the State by the extension of the date of effective grant in favour of the petitioner to 15th March, 2015.

It is also pointed out that the actual license was granted to the said petitioner on 27.1.2015 and upon receipt of the same, the petitioner procured rectified spirit Grade-I by obtaining permits on 3.3.2015 which was received in the Warehouse on 5.3.2015 but could only be stored on 9.3.2015 on account of approval pending at the level of the Department. Further the labels and hydro meter were approved by letter dated 7.3.2015 as contained in memo dated 10.3.2015 and gauging of tanks was also done whereupon the petitioners could start production of country liquor in PET bottles from 15.3.2015. It is thus, submitted by learned counsel for the petitioner that the petitioner started production within five months from the issuance of letter as compared to the other contractors who had taken 10-11 months to start the production. For the said reasons the date of start of production should be extended to 15.3.2015 and the differential rate for the period from 1.2.2015 should be adjusted accordingly.

Learned Principal Additional Advocate General meeting the aforesaid contentions on behalf of the petitioners submits that the petitioners having participated in terms of the notice inviting tender, it is not open to them to challenge what was already indicated in the said NIT. It is submitted that the MGQ, annual and monthly for the year 2013-14 was clearly mentioned in Annexure-3 of the said NIT and that having been seen, the petitioners had participated in the tender process and the petitioners were thus aware of the consequence of the supplies being laid down, which was clearly stated in the NIT that the differential rate has to be paid at least on the amount of MGQ or in case the supplies are more than the MGQ then on the actual amount of supply. It is urged by learned Principal Additional Advocate General that the petitioners cannot be permitted to challenge the figures given in the NIT on any ground including the ground that the quota of spiced country liquor has been included therein and thus the figures having been known to them, it was for them to choose to participate or not for the same and having so participated, it is not open to them to turn around and challenge the same. In this regard, the respondents strongly relied upon Clause 3(vi) of the NIT wherein the aforesaid condition had been clearly laid down.

It is further contended by learned Principal AAG that the said contentions were further incorporated in the letters of grant issued to the petitioners which clearly specify the monthly MGQ for the year 2014-15 and also the method and manner of payment of differential rates.

It is also the contention of learned Principal AAG that the contention of the petitioners regarding shortage of warehouse space is not correct and barring a few instances where on a particular date the concerned warehouse may not have been in a position to receive the goods in question, there has been no such general complaint of any shortage of warehouse. It is also contended by him on the basis of various figures given in the supplementary counter affidavit filed on behalf of the State that the sales for almost all the months were higher than the supplies made.

Further with regard to the petitioner of CWJC No. 4875/2015, it was specifically pointed out that on the basis of the figures available on the record they cannot say that in any month they have produced as per the MGQ.

Learned counsel for the petitioner in CWJC No. 4874/2015 per contra submits that with regard to the Darbhanga zone, being zone No. 12, the aforesaid statements made on behalf of the State-respondents has no application as it is clear from the figures that barring the first two months, it has supplied in excess of the MGQ, whereas the payment is short for every month for substantial amounts and therefore the argument that first the contractor must supply the MGQ then payment shall be made, does not apply at least in the case of the petitioner.

We have considered the submissions of learned counsels for the parties and the materials placed before us and broadly speaking, we are inclined to accept the submission with regard to the State-respondents having acted in the present matter contrary to the requirement of Article 14 of the Constitution of India which has been held in a catena of cases that it applies even in the case of grant of privilege of potable liquor. Once the State has come forward with a particular policy decision and scheme to grant wholesale manufacture and supply of country liquor on the basis of tenders floated by it, then it is not open to it to act in a grossly unfair and unreasonable manner which would amount to arbitrariness and hit by Article 14 of the Constitution.

We are also in agreement with the submission of learned counsels for the petitioners that the State would be bound by the policy decision taken by its Resolution dated 24.10.2013 and merely because certain matters stated therein are not found in the NIT, cannot be a ground for the State to act in a contrary manner. We however, do not find any force in the submission of learned counsels for the petitioners to the extent that since they had acted in terms of the NIT in which there was no statement regarding the fixation of MGQ from year to year, hence, the respondents cannot be permitted to revise the same. Such stand on behalf of the petitioners, in fact, goes against the general tenor of their arguments and the decisions cited by them in this regard, specially in the case of Suprabhat Steel Ltd. (supra), that policy decision taken by the State would stand on a higher footing than any subsequent action and would bind the State. Since the policy decision binds the State, it would equally bind the petitioners who had participated in the NIT pursuant to the said policy decision.

It is evident from the policy decision taken by the

State as also from the NIT that the contractors would have to pay the differential amount between the base rate and the price quoted by them to the State Government to the extent of the monthly/annual MGQ in the manner fixed therein and only in case the supply exceeded the MGQ, payment of differential rates could have been made on the basis of actual sales.

Moreover, the MGQ itself having been clearly stated in the policy decision to be fixed on the basis of actual consumption of liquor in the previous year, the stand of the State that the figures of MGQ of 2013-14 having been given in the NIT, it is not open to the petitioners to challenge the said figures, does not appear to be correct in view of Clause 4 of the policy decision which binds the State to fix the MGQ only on the basis of actual consumption in the previous year. Thus, mere statement of figures of MGQ in Annexure-3 of the NIT cannot be treated sacrosanct if those figures are not correct. In the present matter the petitioners have shown the details with regard to some of the districts that MGQ for country liquor includes the MGQ for spiced country liquor for which there is a separate tender process and settlement. In terms of the policy decision, it was not open to the State to have given such combined MGQ for country liquor and spiced country liquor and the mere fact of their statement in the NIT could not have made the said figure sacrosanct and the State would be required to come out with the correct figure for the year 2013-14 and only thereafter on the basis of actual consumption of country liquor for the year 2013-14 to confirm the position as to whether any increase of MGQ is justified on the basis of the same. Thus, on both the counts this Court is in agreement with the submission of learned counsels for the petitioners that the MGQ in the first year 2013-14 has to be rectified so as to reflect the MGQ of country liquor only and after removing from it the figures with respect to spiced country liquor and thereafter for the subsequent years any increase in MGQ can only be made on the basis of actual consumption figures of the previous year.

Fixation of MGQ which has absolutely no relationship with the actual consumption would be grossly unfair not only in terms of the policy decision of the State Government which binds it but even on the basis of general principles, once it is sought to adopt the principle of MGQ for deciding the amount to be received by the State Government as a measure for parting with its exclusive privilege of dealing in liquor.

So far as the stand of the petitioners with regard to failure of the Corporation to receive supplies is concerned, it does appear from the materials on the record that on some occasions the respondent-Corporation was not in a position to accept the supplies on the ground that its warehouses were full but that does not appear to be a general and regular problem and thus this Court would not like to express any view on the matter at present. However, if the same does become a regular feature, then it would certainly give a right to the petitioners to challenge the action of the respondent-State, whose agent the Beverage Corporation certainly is, in terms of the policy decision and the manner in which the trade in liquor is being carried out and the petitioners may in such circumstances become entitled to a relief with regard to payment of the differential rates. However, in the facts and circumstances of the present matters, no such direction can be given in favour of the petitioners.

This Court is also unable to accept the contention of the petitioners that the quota of unsettled shops should be excluded while calculating M.G.Q. for the Zone in question, since it has already been held by us that the M.G.Q. itself has to be determined keeping in view the actual consumption as laid down in the policy decision.

With regard to the effective date from which differential rates are to be paid, so far as zone Nos. 5,8,9,11, and 13 are concerned, in view of the fact that the respondents themselves have extended the date for the same for the supply to be made with effect from 1.2.2015 and had simultaneously extended the date for supply in sachets till 31.1.2015 then on the parity of reasoning adopted by this Court in CWJC No. 11120/2014 by order dated 28.7.2014, the petitioners would become entitled to the said benefit and the differential rates ought to be taken by the State only from 1.2.2015 and not from 1.1.2015. Thus, the respondents would be obliged to adjust the amounts paid by the petitioners for the first quarter for the month of January, 2015.

With regard to the petitioner of CWJC No. 7115/2015, considering the fact that the grant itself was made on 13.10.2014 much after the earlier grantees and the respondents had also ultimately by the order dated 28.1.2015 of the Excise Commissioner issued the direction to continue the supply of country liquor in sachets till 28.2.2015 for the said zone, the principles laid down by this Court by order dated 28.7.2014 in the earlier batch of cases would apply to the said matter also and the said petitioner would be entitled to the benefit of refund/adjustment of the amount for the month of February, 2015.

So far as the claim of the said petitioner that the effective date for the said petitioner should be 15th March, 2015 is concerned, we are unable to agree to the said submission as no extension of supply in sachet was made by the State Government and it cannot be saddled with the loss occasioned on account of any further delay in the matter.

With regard to the petitioner of CWJC No. 4874/2015, it was pointed out by learned counsel for the petitioner himself that its grant has been cancelled on 11.9.2015. Thus so far as the direction issued by us in the present matter is concerned, the same shall apply to the said petitioner only till the date of cancellation of its grant.

Thus, in the light of the aforesaid discussions, the respondents are directed to calculate the MGQ for the year 2013-14 after excluding the quantity of spiced country liquor from the same. Any increase of MGQ for the year 2014-15 and subsequent years shall only be on the basis of actual consumption in the previous year and as per the policy decision dated 24.10.2013 of the State Government. The effective date of payment of differential rate with regard to zone nos. 5, 8, 9, 11 and 13 shall be treated as 1.2.2015 and the amount paid by the said petitioners for the month of January, 2015 shall be refunded/ adjusted in the amounts to be paid in future. With regard to petitioner of Zone No. 4, the effective date of payment of differential rate shall be from 1.3.2015 and any amount paid for the earlier period shall be refunded/ adjusted.

Let the aforesaid exercise be concluded by the State-respondents within a period of eight weeks from today.

The writ applications are, accordingly, disposed of with the aforesaid observations and directions.

(Ramesh Kumar Datta, J)

S.Pandey/-

(Sudhir Singh, J)

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