

HIGH COURT OF CHHATTISGARH, BILASPUR

WRIT PETITION (C) NO. 556 OF 2015

1. Ramsundar Gupta, son of Late Kanhai Prasad Gupta,
aged about 69 years, R/o Janakpur Ward, Tikrapara,
Kanker, District Kanker (C.G.)

... **Petitioner**

Versus

1. State of Chhattisgarh, Through : the Secretary,
Department of Excise, Mahanadi Bhawan,
Naya Raipur, District Raipur (C.G.)
2. The Commissioner, Excise Department,
Aabkari Bhawan, NH-6 Labhandi, Raipur (C.G.)
3. The Collector, Gariyaband, District Gariyaband (C.G.)
4. District Excise Officer, Gariyaband, Dist. Gariyaband (C.G.)
5. Krantesh Kumar Tiwari, son of Roopnarayan Tiwari,
R/o Ward No.2, House No. G-1, Happy Apartment,
Vijay Nagar, Lalghati, District Bhopal (M.P.)

... **Respondents**

For Petitioner	:	Mr. R.S. Baghel, Advocate.
For Respondents 1 to 4	:	Mr. Prafull Bharat, Addl. Advocate General.

Hon'ble Shri Navin Sinha, Chief Justice

Hon'ble Shri Justice P. Sam Koshy

Order on Board

Per Navin Sinha, C.J.

10/04/2015

1. We have heard Learned Counsel for the Petitioner and Additional Advocate General for the State.
2. It is not in dispute that the Petitioner was at Serial 2 of the panel prepared for allotment of liquor shop in Urmal Group, Gariyaband.
3. Learned Counsel for the Petitioner submits that under Rule 11 of the Chhattisgarh Excise Settlement of Licenses for Retail sale of Country Liquor/Foreign Liquor, Rules 2002, (hereinafter referred to as 'the Rules') if the person at Serial 1 of the panel did not fulfill the conditions for grant of licence within the stipulated time of three days, the next person at Serial 2 was required to be considered subject to his fulfilling the requirements within three days from notice, after which the person at Serial 3 was required to be considered in similar manner. The person at Serial 1 of the present panel was

found ineligible and the Court also declined to interfere in Writ Petition (C) No.539 of 2015. The Respondents did not make any offer to the Petitioner as the second empanelled candidate. The question of his not fulfilling the conditions for allotment within three days of notice does not arise. If the procedure is prescribed statutorily, the Respondents are required to follow the same and make an offer to the Petitioner as the second empanelled candidate.

4. Learned Additional Advocate General submitted that Rule 11 itself provides that an application can be rejected without reasons. He further submits that mere empanelment does not create a vested right in the Petitioner to demand settlement with him.

5. A person empanelled may have no vested right to appointment. Simultaneously, the Respondents cannot act arbitrarily to deny appointment especially if the right emanates from a statutory Rule. Even if the Respondents have the right to appoint none, it cannot be exercised arbitrarily but only for cogent and germane reasons. The counter affidavit does not disclose if an offer has been made to the Petitioner and neither does it state that for any specified reasons the Respondents do not wish to operate the panel. The fact that a fresh advertisement may have been published can be no justification for an action not sanctified in the law.

6. The only appropriate order to be passed at this stage is to direct the respondents to consider the candidature of the Petitioner as the second empanelled candidate in accordance with law within a maximum period of four weeks from the date of receipt and/or production of a copy of this order.

7. The Writ Petition is allowed.

(Navin Sinha)
Chief Justice

(P. Sam Koshy)
Judge