

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 110 of 2015

Date of Decision: 24.8.2015

Anit Kumar

....Petitioner.

Versus

The State of Haryana and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE RAMENDRA JAIN.**

PRESENT: Mr. Chetan Mittal, Senior Advocate with
Mr. Vivek Singla, Advocate for the petitioner.

Ms. Mamta Singla Talwar, Deputy Advocate General,
Haryana with
Mr. Saurabh Mago, Assistant Advocate General, Haryana.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of certiorari for quashing the recovery notices dated 1.1.2015 (Annexures P-18 and P-19, respectively) issued by respondent No.3 for recovery of ₹ 1,08,68,602/- and ₹ 44,10,054/- from the petitioner and notice dated 24.12.2014 (Annexure P-16) issued by respondent No.4 asking for the deposit of total ₹ 1,52,78,656/- within three days.

2. The petitioner was allotted licence for Group No.14, L-2 licence in the excise policy for the year 2013-15. The said Group consisted three vends, i.e., Panipat Road, Gohana, Tehsil Road, Gohana and Jind Road Gohana. Similarly, the petitioner was granted L-2 licence

for Group No.16 in District Sonapat consisting three vends, namely, Mundlana, Butana and Jagsisura. A PIL bearing CWP No. 25777 of 2012 was filed before this Court and in pursuance to the orders passed by this Court, the respondents amended the excise policy by incorporating that all the liquor vends situated on the National and State Highways would be closed from 1.4.2014. The petitioner was issued notices dated 21.3.2014 (Annexure P-1 and P-2, respectively) by respondent No.4 for shifting the vend to a location which is neither accessible nor visible from the National/State Highways. The petitioner submitted the applications dated 24.3.2014 (Annexures P-3 and P-4, respectively) that his liquor vends fall on the State Highway and due to the change in location of the said vends, he do not want to get the licences renewed and requested that by excluding his vends in question, the licences be renewed of the remaining vend. The respondents challenged the order dated 18.3.2014 passed in CWP No. 25777 of 2012 before the Apex Court by filing SLP No. 8971 of 2014 who vide order dated 2.4.2014 (Annexure P-5) ordered to maintain status quo as on date in so far as, the directions relating to Clause (b) of para 1.2.5 of the policy was concerned. In pursuance thereto, the respondents issued a public notice dated 5.4.2014 (Annexure P-6) to the effect that the contractors who have surrendered the vend on the State Highways to get the said vends renewed by 8.4.2014 or else the security deposit of the said licensee would stand forfeited. The Apex Court vide order dated 30.6.2014 (Annexure P-7) directing the respondents not to enforce the notice dated 5.4.2014 (Annexure P-6). The petitioner applied for renewal under pressure and after passing of the order, Annexure P-7, by the Supreme Court, he vide letters (Annexures P-8 and P-9, respectively) informed respondent No.4

that he did not want to run the said vends either in future. After submissions of the said letters, respondent No.4 sent a report to respondent No.2 vide letter dated 24.4.2014 (Annexure P-10) that Groups of the petitioner are closed since 1.4.2014 and neither any permit has been issued nor there is any stock balance on 23.4.2014. On the basis of the said letter, Annexure P-10, the respondents treated the vends of the petitioner as surrendered and put the same to auction by reducing the price by 20%. The petitioner filed CWP No. 7615 of 2014 challenging the notice dated 5.4.2014 (Annexure P-6) which was allowed by this Court vide order dated 9.7.2014 (Annexure P-12) on the statement of the Advocate General, Haryana that the said notice would not be enforced against the petitioner. In pursuance thereto, the petitioner vide letter dated 21.7.2014 (Annexure P-13) requested respondent No.4 for refund of earnest amount of 21% qua to vends each in Group Nos.14 and 16. Respondent No.2 after taking opinion directed respondent No.4 vide letter dated 7.8.2014 (Annexure P-14) to act as per the orders dated 9.7.2014 (Annexure P-12) passed by this Court and dated 30.6.2014 (Annexure P-7) passed by the Apex Court. On the basis of the said letter, respondent No.3 vide order dated 30.9.2014 (Annexure P-15) adjusted the amount of ₹ 38,19,664/- (being 21% of the security deposit of the petitioner in Groups No.14 and 16) towards the installments of October and November. A notice dated 26.12.2014 (Annexure P-16) was issued directing the petitioner to deposit a sum of ₹ 1,52,78,656/- towards the licence fee for the vends which have been surrendered. The petitioner submitted a representation dated 29.12.2014 (Annexure P-17) to respondent No.4, but to no effect. Thereafter, the recovery notices dated 1.1.2015 (Annexures P-18 and P-

19, respectively) were issued by respondent No.3 to the petitioner for recovery of ₹ 1,08,68,602/- and ₹ 44,10,054/-. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that respondent No.3 has issued the notices dated 1.1.2015 (Annexures P-18 and P-19, respectively) for recovery of ₹ 1,08,68,602/- and ₹ 44,10,054/- by overreaching the orders of this Court and that of the statement made by the Advocate General, Haryana.

4. After hearing learned counsel for the parties, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing the petitioner to file reply to the impugned notices within a period of two weeks and upon his doing so, respondent No.3 shall pass a speaking order in accordance with law and after affording an opportunity of hearing to the petitioner within a period of one month thereafter.

(AJAY KUMAR MITTAL)
JUDGE

August 24, 2015
gbs

(RAMENDRA JAIN)
JUDGE