

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 19387 of 2015

Date of Decision: 14.9.2015

Baljeet Singh

....Petitioner.

Versus

State of Haryana and others

...Respondents.

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

PRESENT: Mr. A.K. Jain, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. In this 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 notice dated 8.7.2015 (Annexure P-14) issued by the Assistant Excise Officer, Excise and Taxation Department, Ambala. Further, a writ of mandamus has been sought directing the respondents to treat the petitioner at par with the other allottees by reduction of the licence fee charged in excess from him qua liquor vend Group No.26.

2. The respondents have been issuing excise arrangements showing the location of the vend for various years and issued excise arrangement for the year 2013-15 (Annexure P-1). A Public Interest Litigation (PIL) bearing CWP No. 25777 of 2012 with regard to removal of liquor vends located on highways was filed in pursuance to the letter

dated 1.12.2011. This Court vide order dated 30.7.2013 (Annexure P-2) ordered for removal of liquor vends on the highways in compliance with the letter dated 1.12.2011. Further, this Court vide order dated 17.12.2013 (Annexure P-3) declined the prayer of the respondents for continuation of the policy upto 2015. The State of Haryana was directed to close the liquor vends and to place on record the amended policy by this Court vide order dated 29.1.2014 (Annexure P-5). Against the said order, the State of Haryana filed Special Leave Petition which was dismissed by the Supreme Court vide order dated 10.3.2014 (Annexure P-4). The State amended the policy for the year 2014-15 (Annexure P-6) by inserting clause 2B with regard to establishment of liquor vends on the highways and ordered for shifting of such liquor vends. The amended excise policy for the year 2013-15 was placed on record of CWP No. 25777 of 2012 which was accepted by this Court vide order dated 18.3.2014 (Annexure P-7). In pursuance to the amended excise policy, the respondents issued a notice, Annexure P-8, to all the liquor vends on the highways for submission of application for renewal of their licences for the year 2014-15 subject to the payment of licence fee which was charged for the year 2013-14 without charging enhancement of 5%. The petitioner applied for renewal of the licences, Annexure P-9 (Colly) for the year 2014-15. The petitioner was allotted liquor vends bearing Group Nos. 26 and 27 for the year 2013-14 on payment of licence fees amounting to ₹ 2,45,27,610/- and ₹ 1,64,86,000/-, respectively. Since the respondents had violated the terms of the contract and the policy issued for the year 2013-15, the petitioner sent a notice dated 22.3.2014 (Annexure P-9/A) for changing of locations and the loss to be suffered by him. The petitioner vide application dated 24.3.2014 (Annexure P-10)

applied for renewal of Group No.26. The liquor vend owners (total 51 in number) were to be allotted the liquor vends as per the amended policy on the basis of already fixed reserved price for the year 2013-14 proportionately. Respondent No.3 vide public notice dated 21.5.2014 (Annexure P-11) invited tenders for allotment of the affected vends as per Clause 2.30 of the old policy and not as per the amended policy. Respondent No.2 vide public notices dated 25.6.2014, 26.6.2014, 2.7.2014 and 28.8.2014 (Annexure P-12 Colly) were issued for the allotment of the affected liquor vends by reducing the reserve price from 20% to 60% of the licence fee of liquor vend for the year 2013-14 under Clause 2.30 of the amended excise policy for the year 2014-15. Vide charge, Annexure P-13, 51 liquor vend owners have been allotted the liquor licences in violation of the amended policy, Annexure P-1. A notice dated 8.7.2015 (Annexure P-14) was issued to the petitioner demanding a sum of ₹ 36,49,748/- as excise duty in respect of balance licenced fee with regard to Group Nos. 26 and 27. In response thereto, the petitioner filed reply dated 18.8.2015 (Annexure P-15) before respondent No.3, but no response has been received till date. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that the petitioner filed reply dated 18.8.2015 (Annexure P-15) to the notice dated 8.7.2015 (Annexure P-14), but to no effect. He, however, submitted that liberty be granted to the petitioner to file a detailed and comprehensive representation before the appropriate authority by incorporating the grievance as raised in the present writ petition, however, direction be issued to the authority concerned to decide the representation expeditiously in a time bound manner in accordance with

law.

4. After hearing learned counsel for the petitioner, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.3 to take a decision on the reply dated 18.8.2015 (Annexure P-15) or any other detailed and comprehensive representation raising all the pleas as raised in the present writ petition to be filed by the petitioner within a period of two weeks from the date of receipt of certified copy of this order, in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of two months from the date of receipt of representation. The petitioner shall be entitled to lead any evidence to substantiate his claim before the concerned authority.

(AJAY KUMAR MITTAL)
JUDGE

September 14, 2015
gbs

(RAMENDRA JAIN)
JUDGE