IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11611 of 2015

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1. Manju Devi, w/o Ranbir Singh, resident of village- Gabaspur, Police Station- Gaurichak, District- Patna.
2. Ranbir Singh, son of Madan Singh, resident of village- Gabaspur, Police Station- Gaurichak, District- Patna.
3. Jitendra Kumar Singh son of Nawal Kishore Singh, resident of Mohalla- Chandmari Road, Police Station- Kankarbagh, District- Patna.
4. Rina Devi, W/o Sanjay Kumar, resident of Mohalla- Bakarganj, Daldali Road, Police Station- Kadam Kuan, District- Patna.
5. Sunita Singh, w/o Late Dharmendra Kumar Singh, resident of Mohalla- Chandmari Road, Police Station- Kankarbagh, District- Patna.
6. Sanjeeb Kumar, son of Late Satya Narain Prasad, resident of Park Road, Kadam Kuan, Police Station- Kadam Kuan, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Excise & Prohibition Department, Bihar, Patna.
2. The Chief Secretary, Government of Bihar, Patna.
3. The Member, Board of Revenue, Govt. of Bihar, Department of Revenue and Land Reforms, Patna.
4. The Bihar State Beverage Corporation Limited, a Government of Bihar Undertaking, having its registered office at Eastern Wing, 1st Floor, Vidyut Bhawan- II, Jawaharlal Nehru Marg, Patna- 1 through its Managing Director.
5. The Managing Director, Bihar State Beverage Corporation Limited, having its registered office at Eastern Wing, 1st Floor, Vidyut Bhawan- II, Jawaharlal Nehru Marg, Patna- 1.
6. The General Manager Operation-I, Bihar State Beverage Corporation Limited, having its registered office at Eastern Wing, 1st Floor, Vidyut Bhawan- II, Jawaharlal Nehru Marg, Patna- 1.

.... Respondent/s

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Appearance :

For the Petitioners	:	Mr. Suraj Narain Yadav, Advocate Ms. Annu Shree, Advocate
For the Respondents-BSBC Ltd.	:	Mr. Lalit Kishore, Senior Advocate Mr. Vikash Kumar,
For the Respondents-State	:	Mr. Bishwa Bibhuti Kumar Singh, A.C. to P.A.A.G.-I

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
And
HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 19-11-2016

The petitioners were the retail licensees of different shops of Indian Made Foreign Liquor/Beer for the financial year 2013-14. As per the excise policy, licence fee at the rate of Rs.150 per London Proof Liter (LPL) on the total Minimum Guarantee Quota (MGQ) and at the rate of Rs.10 per Bulk Liter (BL) on the total MGQ of Beer of the retail shop was payable by the retail licensees. However, vide Notification dated 7th of December, 2012; additional licence fee at the rate of Rs.3 per LPL on the Indian Made Foreign Liquor and Beer was imposed. However, the maximum retail price on the bottles was revised on 17th of April, 2013. The petitioners claim that the additional licence fee was levied on 1st of April, 2013 without corresponding increase of the retail price; therefore, such levy is illegal till 16th April, 2013.

Learned counsel for the petitioners relies upon an order passed by this Court in CWJC No.24646 of 2013 (Nawal Kishore Singh Vs. The State of Bihar & Ors.) decided on 25th June, 2014, wherein the levy of additional fee at the rate of Rs.3/- was quashed for the period from 1st April, 2013 to 16th April, 2013.

The petitioners claim the same relief as has been granted in the said writ applications.

Mr. Lalit Kishore, learned Principal Additional Advocate General, states that the State filed Special Leave to Appeal (c) Nos.8943-8944/2015 (The Bihar State Beverages Corporation Ltd. & Ors. Versus Nawal Kishore Singh & Ors.) against the order passed by this Court on 25th June, 2014. The Supreme Court ordered that the direction dated 29th August, 2013 issued by the Bihar State Beverage Corporation will be restricted to the writ applicants alone. Therefore, the petitioners who have approached this court after the decision of this court are not entitled to the relief as granted by this Court in the said case.

We have heard learned counsel for the parties and find that the petitioners are entitled to the same relief as has been granted to the writ applicants of the aforesaid writ applications. The ratio laid down by this Court is binding on this Court and, therefore, the same relief cannot be denied to the petitioners.

The argument that the writ application was filed in the year 2015 after the decision thereof cannot bar the petitioners from claiming the same relief as the levy was found to be illegal for the period from 1st April, 2013 to 16th April, 2013. The petitioners invoked the jurisdiction of this court in the year 2015 that is within 3 years of the cause of action having arisen to them. Such illegal levy cannot be sustained in the present writ application.

Consequently, the writ application is allowed in the same terms as in Nawal Kishore Singh's case (Supra). The order dated 29th August, 2013 is quashed *qua* the petitioners.

(Hemant Gupta, ACJ)

(Vikash Jain, J)

Sunil/-

AFR/NAFR	N. A. F. R.
CAV DATE	N. A.
Uploading Date	23.11.2016
Transmission Date	