

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7132 of 2016

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Nawal Kishore Singh, Son of late Chandeshwar Singh, resident of Chandmari Road, Police Station-Kankerbagh, District Patna.

.... Petitioner

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 & 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-800001, 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-800001
6. The General Manager Operation -1, Bihar State Beverage Corporation limited, having its registered office at Eastern Wing, 1st Floor, Vidyut Bhawan,-II, Jawaharlal Nehru Marg, Patna-800001.
7. The Accountant General, Bihar, Birchand Patel Path, Ptina-800001
8. M/S Anusuya Blenders Pvt. Ltd., Bandhper, Didarganj, Begumpur, PO Begampur, Patna City, Distt. - Patna -803201, through its proprietor.
9. M/S Molson Coors Cobra India Pvt. Ltd., Sikandarpur, PO Bihata, Patna, through its Proprietor.
10. M/S Molson Coors Cobra India Pvt. (A/C Mount Shivalik Industries Ltd.) Bandhper, Didarganj, Begampur, PO Begampur, Patna City, Patna through its Proprietor.
11. M/S Blooms Liquors Private Limited, Village- Mohannadhpur Poza, PO Bavantoli, PS Goraul, Distt- Vaishali through its Proprietor.
12. M/S Bacardi India Private Ltd, Guru Nanak Transport Building, Karmalichak, Bypass Road, Patna through its Proprietor.
13. M/S Bacardi Martini India Ltd. Guru Nanak Transport Building, Karmalichak, Bypass Road, Patna through its Proprietor.
14. M/S Beam Global Spirits & Wine (India) Pvt. Ltd., Bhagwat Nagar, Transport Nagar (W), Kumhrar, Distt-Patna, through its proprietor.
15. M/S Blossom Industries Ltd., Dhaulpura, Chauckkala, Patna City, Distt- Patna through its Proprietor.
16. M/S Carlsberg India Pvt. Ltd., Plot No. -01, Mauza Raghunathpur-Kanpa, PS Rani Talab, PO- Bikram, Distt Patna, through its Proprietor.
17. M/S Chitwan Blenders & Bottlers Pvt. Ltd. (USL), Khagaul Road, Danapur, Distt Patna, through its Proprietor.
18. M/S Colona Blenders & Bottlers India Pvt Ltd (A.B.D), Indraasan, 1/MB, Mitra Vihar Colony, West Boring Canal Road, Distt Patna, through its Proprietor.
19. M/S Devans Modern Breweries Ltd, Didarganj, Near Chek Post, Patna City, Distt -Patna through its Proprietor.
20. M/S Diageo India (P) Ltd, Lessie Konkan Agro Marine Industries (P) Ltd Jakariyapur, Agamkuan, Patna, Distt Patna, through its Proprietor.
21. M/s Goodhost Liquors Pvt. Ltd., Karmalichak, Patna City, District Patna

through its Proprietor.

22. M/S Goodhest Liquors Pvt Ltd (Radico) Karmalichak, Patna city, Distt Patna through its Proprietor.
23. M/S Iceberg Industries Ltd, Sikandarpur, PO Bihta Distt Patna through its Proprietor.
24. M/S Inderdev Goods Private Ltd., Naya Tola, Kankarbagh Road, Patna, Dist-Patna, through its Proprietor.
25. M/s Inderdev Goods Pvt Ltd (M/S Tilaknagar Ind. Ltd), Naya tola Kunkarbagh Road, Patna Distt Patna through its Proprietor.
26. M/S Khoday India Ltd, Sandalpur, Sultanganj, Distt Patna through its Proprietor.
27. M/S Mohan Meakin Ltd, S.D. Singh Coal Co. Pvt Ltd Khagoul Road, Saguna More, Patna Distt Patna through its Proprietor.
28. M/S Mount shivalik Breweries Ltd (PNB) S.D. Sing Coal Company Private Ltd Saguna More, Khagaul Road, Patna Distt Patna through its Proprietor.
29. M/S Mount Shivalik Industries Limited Manish Kumar, Area Sales Manager, 1/33, Vivekanand Marg, North S.K. Puri, Patna-13, Distt Patna through its Proprietor.
30. M/s Pernod Ricard India (P) Ltd, Shalimar Cold Storage Campus, Anishabad, Patna Distt Patna through its Proprietor.
31. M/S Pernod Ricard India P Ltd (SL) Gwalior Distillers Shalimar Cold Storage, New Bypass Road, Patna Distt Patna through its Proprietor.
32. M/S Pernod Ricard India P Ltd (Sub Lease) at Gwalior Alcobrew (P) Ltd., Sabalpur, Near Shiva Poly Tube Factory, Behind Godrej Warehouse, Sadar City, Patna – 800009, through its Proprietor.
33. M/s Radico khaitan Ltd (Unit Grain Spirit Plant), C/o Goodhost Liquors Pvt Ltd (Radico) Karmalichak, Patna City, Patna through its proprietor.
34. M/S SAB Miller India Limited (Unit Haryana Breweries) E/93, Shri Krishnapur, Patna- 800001, through its Proprietor.
35. M/S Salson Liquors Pvt Ltd. (USL) Danapur Khagaul Road, Distt- Patna through its Proprietor.
36. M/S Skol Breweries Ltd. Haryana Breweries, E/93, Sri Krishnapuri Patna-800001, through its Proprietor.
37. M/S United Spirits Limited Sub Lessee- Saibya Liquors (P) Ltd, Vill & PO Kamaldah, PS Bathabaha, Distt Sitamarhi, 843322 (Bihar) through its proprietor.
38. M/S United Breweries Limited, Didarganj, Near check Post, Patna City, Patna through its Proprietor.
39. M/S United Breweries Limited Alwar Rajasthan, Didarganj, Near Check Post, Distt Patna through its Proprietor.
40. M/S United Breweries Limited Dharuhera Haryana Satya deo Singh Cold Storage Campus, Karmalichak Bypass Road, Saguna More, Distt Patna through its Proprietor.
41. M/S United Spirits Ltd, Hathidah, Distt Patna, through its Proprietor.

.... Respondents

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Appearance:

For the Petitioner/s	:	Mr. Suraj Narain Yadav, Advocate.
For Beverage Corp.	:	Mr. Lalit Kishore, Sr. Advocate.
		Mr. Vikas Kumar, Advocate.
For Accountant General	:	Mrs. Nivedita Nirvikar, Advocate.

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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: 16-11-2016

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The petitioner has invoked the public interest writ jurisdiction of this Court challenging the action of the Bihar State Beverage Corporation Limited (hereinafter referred as “the Corporation”) of payment of Rs. 28 crores to the manufactures of the liquor collected from the consumers by enhancing the maximum retail price of Indian Made Foreign Liquor/Beer from 17.04.2013 without the approval of the Board of Revenue.

2. The argument of the learned counsel for the petitioner is that the Corporation has paid a sum of Rs. 28 crores illegally to the manufacturers in contravention of the terms of the license entered by the manufacturers with the Corporation.

3. A license is given to the manufacturer in the form 19(C) of Bihar Excise Act, 1915. The Corporation has published Liquor Sourcing Policy 2013-14. A perusal of such policy (Annexure-4) shows that the Corporation is the sole wholeseller for all kinds of liquor in the State of Bihar. Under such policy, the manufacturers have to sell the Indian Made Foreign Liquor/Beer and wine to the Corporation on the rates determined, the process of which is mentioned in the Liquor Sourcing Policy 2013-14. After the Indian

Made Foreign Liquor/Beer is delivered to the Corporation on the determined price, the Corporation facilitates its sale through the retailers which pass the liquor to the consumers. After receipt of the sale proceeds from the consumers through retailers, the Corporation makes payment to the manufacturers.

4. It is pointed out by Shri Lalit Kishore, Principal Additional Advocate General that the manufacturers are paid only after receipt of the sale proceeds from the retailers, therefore, such payment has been made. It cannot be said that the payment made to the manufacturers is in excess.

5. We find that the process of determination of the price on which the manufacturer has to deliver the liquor is complex and cannot be reviewed in exercise of the powers of judicial review of this Court. Since the process of payment to the manufacturers is based upon complex calculation of the price, we do not find that this court has the expertise to find out whether excess payment has been made to the manufacturers or not.

6. Having said so, we may say that the petitioner was licensee up to financial year 2013-14 including the year in question. Therefore, it cannot be said that the petitioner has public interest as it appears to be actuated by his personal interest.

7. Still further, the Accountant General examines the

accounting procedures of the Corporation and if the office of the Accountant General finds any illegality and irregularity in making of payment to the manufacturers, the office of the Accountant General is competent to take remedial steps.

8. In view thereof, we do not find that any orders are required to be called for in the present writ application.

9. Accordingly, the writ application is dismissed.

(Hemant Gupta, ACJ)

(Vikash Jain, J)

Mishra/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	19.11.2016
Transmission Date	