IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16657 of 2016

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Vinay Kumar Jaiswal son of Shri Sadhorsaran Jaiswal resident of Village-Naugadh, P.S.- Naugadh, District- Chandoli (U.P.)

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Excise Commissioner, Bihar, Patna.
3. The Collector, Rohtas.
4. The Assistant, Commissioner of Excise, Rohtas.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Ganga Prasad Bimal, Adv.
For the Respondent/s : Mr. LALIT KISHORE(AG)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 13-11-2017

The only issue involved is that on account of failing to lift the minimum annual quota for the financial year 2013-14 for the licence granted to the petitioner for Group No.55 country liquor, petitioner's security amount has been forfeited and certain penal amount has also been imposed.

Inter alia contending that the entire security amount cannot be forfeited in view of a Division Bench judgment of this Court in the case of Rajesh Kumar Singh vs. The State of Bihar &

Ors., 2011(4) P.L.J.R. 703, this petition has been filed seeking refund of the security amount after deducting the amount of penalty imposed and granting liberty to the petitioner to challenge the penal action taken in accordance with law.

Even though by filing a counter affidavit the State Government has tried to justify the action taken, but on a perusal of the legal principles laid down in the case of Rajesh Kumar Singh (supra) we find that a Co-ordinate Bench of this Court has clearly held that if minimum guaranteed quota as per condition in the licence is not lifted, the only consequence is taking action for breach of licence, but this does not permit forfeiture of security amount.

Keeping in view the aforesaid, we see no reason to take a different view in the matter. The respondents are not entitled to forfeit the security, but are only entitled to take penal action and recover part security amount and thereafter refund the remaining amount. As the respondents are entitled to forfeit only Rs.66,000/- which is the pending fee under Section 68 of the Bihar Excise Act, 2015, the respondent should refund the entire remaining security amount after forfeiting the aforesaid pending fee of Rs.66,000/- within 60 days.

With the aforesaid, the petition stands allowed and disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

K.C.Jha/-

AFR/NAFR	NAFR
CAV DATE	
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