

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14629 of 2016

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1. Pushpa Devi Wife of Shri Kanhaiya Prasad resident of Noniya Bigha, P.S.
Aurangabad, District Aurangabad

.... 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, Aurangabad
4. The Secretary to the Excise Commissioner, Bihar
5. The Superintendent of Excise, Aurangabad

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ganga Prasad Bimal

For the Respondent/s : Mr. LALIT KISHORE- PAAG 1

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 22-11-2017

Seeking refund of an amount of Rs. 10,24,500/-
deposited by the petitioner as a security deposit for grant of license
with regard to group of shop being Group No. 30 for the area in
question the writ petition has been filed.

In the application earlier submitted for the financial year
2014-15 petitioner's bid was accepted and the allotment of excise
shop in the district of Aurangabad for Group No. 30 was made in
favour of the petitioner. However, one Indu Devi aggrieved by the
allotment approached this Court in C.W.J.C. No. 6779 of 2015 and



vide order dated 08.07.2015 the learned Writ Court found that the petitioner Pushpa Devi was not eligible to seek allotment as she was a defaulter and as the award was made to her contrary to the law the award was cancelled and it was directed that it be granted to Indu Devi. The order attained finality and the petitioner sought for refund to the security amount deposited. This was denied to the petitioner reference was made to the State Government and the State Government made an opinion that when the Writ Court in its order passed on 08.07.2015 in C.W.J.C. No. 6779 of 2015 has not directed for refund of the amount, the amount cannot be refunded. Today apart from the aforesaid submission made learned Advocate General argued that once allotment made in favour of the petitioner is cancelled as she was not entitled for refund of the amount and no error has been committed by the State Government in refusing to refund the amount. However, no rule, regulation or statutory provision has been brought to our notice wherein under such circumstances the power is vested with the State Government for forfeiture of the security amount. As in the case security amount had been deposited for working out the contract and once by virtue of an order passed by this Court in a writ petition the contract was cancelled in the absence of statutory provision permitting withholding or forfeiture of the security amount, the State cannot withhold the amount and once the contract of the



petitioner is cancelled, the petitioner was entitled to refund of the security amount.

This having not been done, we allow this petition and direct the State Government to refund the amount of security to the petitioner.

Accordingly, the order passed by the State Government vide Annexure-A dated 14.07.2016 stands quashed and the respondents directed to refund the security amount of Rs. 10,24, 500/- to the petitioner within a period of sixty days.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

KKSINHA/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.11.2017
Transmission Date	NA

