

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No.2300 of 2017**

Surendra Singh S/o Ramcharitra Singh, Aged About 50 Years R/o
House No. 148 Purani Basti, Durg, District Durg, Chhattisgarh.

----Petitioner

Versus

1. State Of Chhattisgarh Through Secretary To The Government Of Chhattisgarh, Department Of Excise, Mahanadi Bhavan, Mantralaya, Naya Raipur, District Raipur, Chhattisgarh.
2. The Commissioner, Department Of Excise, Raipur District Raipur Chhattisgarh.
3. District Excise Officer, Dhamtari District Dhamtari, Chhattisgarh.
4. Collector (Excise), Dhamtari, District Dhamtari Chhattisgarh.
5. Punjab National Bank, Through The Branch Manager, Nandani Road, Bhilai, District Durg, Chhattisgarh.
6. Officer On Special Duty, Department Of Excise, Raipur, District Raipur, Chhattisgarh.

---- Respondents

WPC No.2309 of 2017

Achchhelal Yadav S/o Ramvriksh Yadav, Aged About 53 Years R/o
House No. 927, Kumhari, Durg District Durg Chhattisgarh

----Petitioner

Versus

1. State Of Chhattisgarh Through Secretary To The Government Of Chhattisgarh, Department Of Excise, Mahanadi Bhavan, Mantralaya, Naya Raipur, District Raipur, Chhattisgarh.
2. The Commissioner, Department Of Excise, Raipur District Raipur Chhattisgarh.
3. District Excise Officer, Dhamtari, District Dhamtari Chhattisgarh.
4. Collector (Excise), Dhamtari, District Dhamtari Chhattisgarh.
5. Punjab National Bank, Through The Branch Manager, Nandani Road, Bhilai, District Durg, Chhattisgarh.
6. Officer On Special Duty, Department Of Excise, Raipur, District Raipur, Chhattisgarh.

---- Respondents

And

WPC No.2366 of 2017

Shyam Kumar S/o. Dashrath Lal, aged about 49 years, R/o. House
No.276, Bapu Nagar, Sector 11, Zone 2, Bhilai, District Durg (CG)

----Petitioner

Versus

1. State Of Chhattisgarh Through Secretary To The Government Of Chhattisgarh, Department Of Excise, Mahanadi Bhavan, Mantralaya, Naya Raipur, District Raipur, Chhattisgarh.
2. The Commissioner, Department Of Excise, Raipur District Raipur Chhattisgarh.
3. District Excise Officer, District Gariyaband, District Gariyaband Chhattisgarh.
4. Collector (Excise), Gariyaband , District Gariyaband Chhattisgarh.

5. Punjab National Bank, Through The Branch Manager, Nandani Road, Bhilai, District Durg, Chhattisgarh.
6. Officer On Special Duty, Department Of Excise, Raipur, District Raipur, Chhattisgarh.

---- Respondents

For Petitioners	:	Mr.Manoj Paranjape, Advocate
For Res.No.1 to 4 & 6	:	Mr.Arun Sao, Dy.A.G.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

6/9/2017

1. These writ petitions are directed against the order dated 28.6.2017 and 30.6.2017 respectively by which the Collector (Excise), Dhamtari and District Excise Officer, Gariyaband respectively have directed to the Branch Manager of Punjab National Bank, Bhilai to deduct an amount of ₹ 25558/-, ₹ 56200/- and ₹ 4000/- respectively from the bank guarantee and remaining bank guarantee should be kept alive.
2. Learned counsel for the petitioners would submit that the petitioners have no grievance with regard to deduction of an amount, but have only grievance with regard to issuance of direction that remaining amount of bank guarantee be kept alive, which the petitioners are entitled. He would further submit that said direction is covered by the judgment and order of this Court passed in WPC No.1812 of 2017 (Arvind Panda Vs. State of Chhattisgarh and others), delivered on 11.8.2017 in which this Court has held as under:-

“18. In view of above-mentioned analysis, this Court is of the considered opinion that the bank guarantee furnished by the petitioners which was conditional in nature, cannot be directed to be encashed dehors the terms / conditions of bank guarantee by the impugned memo (Annexure P-1) and the reason assigned subsequently in the returns filed is unacceptable, that

cannot be made basis for invoking and directing encashment of bank guarantee. Such a direction issued by the Commissioner, Excise is contrary to the terms/conditions of bank guarantee, and irrational and arbitrary as well.”

3. On the other hand, learned State Counsel would submit that affidavit of the Collector has been filed and would oppose the writ petitions.
4. I have heard learned counsel for the parties and perused the impugned orders.
5. In the light para 18 of the judgment of this Court in **Arvind Panda** (supra), the instant writ petitions are allowed and direction relating to revocation/encashment of bank guarantee is hereby quashed and it is held that respondents/State are not entitled to invoke the bank guarantee except an amount of ₹ 25558/-, ₹ 56200/- and ₹ 4000/- respectively. No order as to cost(s).

Sd/-

(Sanjay K. Agrawal)

Judge

B/-