

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14333 of 2018

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Sanjay Kumar Sahu son of Late Muni Lal Prasad, resident of Purani G.T. Road, Idgah Mohalla, P.O. & P.S.- Dehri-on- Son, District Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Excise Commissioner, Bihar, Patna.
3. The Collector, Rohtas, Sasaram.
4. The Assistant Commissioner of Excise, Rohtas, Sasaram.
5. The District Certificate Officer, Rohtas, Sasaram.

... .. Respondent/s

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with

Civil Writ Jurisdiction Case No. 10374 of 2018

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Bishwanath Prasad @ Bishwanath Prasad Gupta, son of Late Ramesh Chandra Gupta, resident of Nauki Bazar, Bagha, P.S. Bagha, District- West Champaran

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Excise and Prohibition Department, Government of Bihar, Patna
2. The Excise Commissioner, Bihar, Patna
3. The Collector, West Champaran, Bettiah
4. The Superintendent of Excise, West Champaran, Bettiah
5. The Certificate Officer, West Champaran, Bettiah

... .. Respondent/s

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with

Civil Writ Jurisdiction Case No. 15366 of 2018

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Binod Singh, Son of Late Rajeshwar Singh, Resident of Purani Gudari, Bettiah, P.S. Bettiah, District- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Excise Commissioner, Bihar, Patna.
3. The Collector, West Champaran, Bettiah.
4. The Superintendent of Excise, West Champaran, Bettiah.

... .. Respondent/s

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with



Civil Writ Jurisdiction Case No. 15246 of 2018

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Sandeep Kumar Singh, Son of Late Awadhesh Singh, Resident of Tikulia,
P.S.- Chanpatia, District- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Excise and Prohibition Department,
Government of Bihar, Patna.
2. The Excise Commissioner, Bihar, Patna.
3. The Collector, West Champaran, Bettiah.
4. The Superintendent of Excise, West Champaran, Bettiah.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satyabir Bharti, Advocate
For the Respondent/s : Mr. Lalit Kishore- AG.

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 03-08-2018 In the matter of adjustment of outstanding dues with
regard to payment of duty under the Excise Act i.e. the license
fee and adjustment of the same by recovery from the security
amount, the issue was considered by this Court in various cases
on 26.07.2017 in C.W.J.C. No. 18598 of 2015 and analogous
cases and after considering the principles of law laid down by
the Hon'ble Supreme Court in the case of V.K. Aashokan Vs.
Assistant Excise Commissioner, (2009) 14 SCC 85 and the
observations made by the Supreme Court in para 62 onwards of
the aforesaid judgment, the petitions were disposed of in the
following manner:-



“Having considered the rival contentions, we find that in these cases merely on the basis of the audit objection received, the impugned action has been taken, but before taking the impugned action neither any show cause notice was given to the petitioners nor were they heard nor the principle of law laid down in the case of V.K. Ashokan (supra) was followed.

That being so, we deem it appropriate to remand the matter back to the competent department of the State Government to issue notice to the petitioners, consider their objection, evaluate it in the backdrop of the law laid down in the case of V.K. Ashokan (supra) or any other law as may be applicable and take a decision afresh in accordance with law.

Accordingly, we allow all these petitions in part, quash the impugned order and direct the petitioners to appear before the competent authority along with a certified copy of this order and on the same being done, the competent authority shall issue notices to the petitioners proposing the action to be taken against them, grant them opportunity of hearing and for submitting their explanation and thereafter taking note of the principles of law as may be applicable detailed hereinabove, proceed to pass fresh orders in accordance with law. The entire exercise in this regard should be undertaken and completed within a period of two months.”



The petitioners pray for consideration of their claims also for adjustment in identical terms.

Having heard learned counsel for the parties, we see no reason to deny this benefit to the petitioners. These petitions are also disposed of in identical terms as is reproduced hereinabove in the order passed by us on 26.07.2017 in C.W.J.C. No. 18598 of 2015 and other analogous cases. However, we may reiterate that we have not expressed any opinion on the merits of the contentions advanced and it would be for the appropriate authority to take action and decide the issue within a period of two months from the date of receipt/production of a certified copy of this order.

The impugned orders are quashed and action now be taken only after fresh orders are passed. The petitioners are directed to appear before the competent authority along with the certified copy of the order and details of their claims.

With the aforesaid, the applications stand disposed of.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

P.K.P./-

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