

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8519 of 2017

M/s Samrat Laboratories having its factory at Harpur Alloth, Industrial Estate, Samastipur through its Proprietor Shri Surjit Singh, son of late Rawel Singh, resident of Bengali Tola, P.S. & P.O. Samastipur, District-Samastipur.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Registration, Excise and Prohibition, Government of Bihar, Patna.
3. The Excise Commissioner, Bihar, Patna.
4. The Collector, Samastipur.
5. The Superintendent of Excise, Samastipur.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 8514 of 2017

M/s Shiva Laboratories Pvt. Ltd., a company incorporated under the Companies Act, 1956, having its factory at Village-Kharuara, P.O. Chero, P.S. Harnaut, District-Nalanda through its Director Shri Rajeev Kumar, son of Shri Ram Binod Singh, resident of House No.14/30, East Ashok Nagar, P.S. Kankerbagh, District-Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Registration, Excise and Prohibition, Government of Bihar, Patna.
3. The Excise Commissioner, Bihar, Patna.
4. The Collector, Nalanda.
5. The Superintendent of Excise, Nalanda.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 8519 of 2017)

For the Petitioner/s : Mr. Satyabir Bharti, Advocate

Ms. Aparna Arun, Advocate

For the Respondent/s : Mr. Lalit Kishore- AG

Mr. Bishwa Bhubbuti Kr Singh, Advocate

(In Civil Writ Jurisdiction Case No. 8514 of 2017)

For the Petitioner/s : Mr. Satyabir Bharti, Advocate

Ms. Aparna Arun, Advocate

For the Respondent/s : Mr. Lalit Kishore, Advocate

Mr. Bhishwa Bhubhuti Kr. Singh, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT



(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 12-02-2018

In both these writ petitions, the prayer made is to declare Section 2(40) (ii) & (iii) and Section 13 of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as 'the Act') as *ultra vires* and to hold that the State Legislature and its authority are not competent to legislate with regard to de-natured spirit as the same does not fall within the definition of 'intoxicant' as defined under the Act. That apart, it is pointed out that the issue in question between the parties also stands decided by a co-ordinate Bench of this Court in CWJC No.5975 of 2016 and CWJC No.6054 of 2016 vide judgment, Annexure-7, dated 30th September, 2016.

Having considered the rival contentions, we find that the issue with regard to the constitutional validity to Section 2(40) (ii) and (iii) and Section 13 of the Act and the fact that as to whether the State Government is competent to legislate with regard to denatured spirit (industrial alcohol) has already been decided and identical petitions allowed by a Full Bench of this Court in the case of **Bihar Distillers and Bottlers Pvt. Ltd. Vs. The State of Bihar** reported as 2017(2) PLJR 818. The Full Bench of this Court in the aforesaid case has held that denatured spirit does not come within the ambit of 'intoxicant' as defined in the Act and the State



Government is not competent to legislate on denatured spirit and other industrial alcohol. We are informed that against the judgment rendered by the Full Bench of this Court, the State Government had filed Special Leave to Appeal (Civil) No.16828-16831/2017 and the Hon'ble Supreme Court has recently on 19.01.2018 dismissed the SLP filed by the State Government.

In view of the above and the fact that the *lis* between the parties has already been decided by a co-ordinate bench of this Court as indicated hereinabove, we allow these petitions and dispose them off in terms of the order already passed by the Full Bench of this Court in the case of **Bihar Distillers and Bottlers Pvt. Ltd.** (supra). Accordingly, now the consequential benefits accruing to the petitioners by virtue of the aforesaid declaration shall be extended to them.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.02.2018
Transmission Date	

