

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURWPC No. 1241 of 2018

New Bengal Bihar Road Lines Through Its Proprietor Tej Bahadur Singh, S/o Ram Sagar Singh, Aged About 33 Years, Rajiv Nagar, Khursipar Ward No. 29 Bhilai, District Durg Chhattisgarh.

---- **Petitioner**Versus

1. State Of Chhattisgarh Through Secretary-Cum Commissioner Department Of Excise, Ministry, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh.
2. The Collector District Bemetara Chhattisgarh.
3. District Excise Officer Bemetara, District Bemetara Chhattisgarh.
4. Chhattisgarh State Marketing Corporation Limited Through Its Managing Director First Floor, Excise Building Chhokra Nala, Labhandi Raipur District Raipur Chhattisgarh.
5. District Director, Chhattisgarh State Marketing Corporation Limited Bemetara District Bemetara Chhattisgarh.

---- **Respondents**

For Petitioner	:	Shri Jitendra Pali, Advocate
For State	:	Shri J. K. Gilda, Advocate General with Shri Y.S. Thakur, Additional Advocate General

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri Sharad Kumar Gupta, Judge

Order on BoardPer Thottathil B. Radhakrishnan, Chief Justice03/05/2018

1. We have heard the learned counsel for the petitioner and the learned Advocate General quite *in extensio* in this writ petition wherein the petitioner seeks to challenge Clause 1.2 of Annexure P/1 tender document issued by the Chhattisgarh State Marketing Corporation

Limited for transport of country liquor, foreign liquor, spirit and malt to various retail outlets.

2. The plea of the petitioner and the argument on his behalf is that Clause 1.2 prescribes a minimum experience of two years of transportation in government and semi-government organizations, and such prescription is not uniformly applied in the different districts. The petitioner, therefore seeks to make out a case of hostile discrimination impinging Article 14 of the Constitution.
3. Clause 1.7 provides that the transporters should have experience in the liquor transportation. Clause 1.2 says that the firm should have minimum two years experience of transportation in government, semi government organizations. The petitioner has placed materials to show that in different districts, the requirement of minimum two years experience has been watered down.
4. We have gone through those documents. Each of those documents disclose the local conditions and situations and the fact that the Corporation modulated its terms and conditions to suit the local conditions in relation to lifting and supplying of IMFL to the retail outlets. The local conditions in all districts cannot be treated as equal. It will not be in the judicial realm for us to adjudicate in writ jurisdiction and say that the local transportation conditions of Raipur Division, Durg Division, Bilaspur Division, Bastar Division and Surguja Division are all the same. The Corporation is the agent of the State. The exclusive privilege to vend liquor is with the State. Liquor cannot be made available in the State of Chhattisgarh, except through the Corporation. The tender document in question relate to contracts of transportation which have to be modulated and operated upon so that the objects sought to be achieved by giving such contract are fulfilled and

accomplished. We do not see that there is any straitjacket formula by which we could say that the two years experience prescribed should be reduced uniformly in all the divisions of Chhattisgarh. We do not see any case of classification which could be treated as resulting in hostile discrimination in the matter of fixing of the experience for competing in the contract or to enjoy any reduced experience limit as the Corporation may deem fit in operating its activities in dealing with liquor. We do not find any ground to interfere on the grounds raised by the petitioner. This writ petition therefore fails.

5. In the result, this writ petition is dismissed.
6. At this stage the learned counsel for the petitioner stated that his client may be entitled to seek some remedy by way of arbitration. If that is so, that will stand left open. We do not express anything either way on this aspect.

Sd/-

(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-

(Sharad Kumar Gupta)
Judge