

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No. 26053 of 2018 (O&M)

Date of decision: 16.10.2018

Indraj Bhati

.. Petitioner

VS

State of Haryana and others

.. Respondents

**Coram: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice Mahabir Singh Sindhu**

Present: Mr. Rajiv Agnihotri, Advocate, for the petitioner.
Mr. Ankur Mittal, Additional Advocate General, Haryana.

Rajesh Bindal, J.

The petitioner in the present case was an applicant for grant of license for sale of liquor. It was submitted that initially advance of ₹ 40 lacs was deposited on 18.3.2017 but he did not deposit the balance amount to make it 5% of the total consideration required for allotment of license to him. He never became allottee of the vend. Still allotting vend at the risk and cost of the petitioner, difference of license money is sought to be recovered from him. In the process, the petitioner was never afforded any opportunity of hearing. He even filed a representation dated 5.9.2018 but the same has not been responded.

Learned counsel for the State submitted that the petitioner had deposited the balance amount including ₹ 40 lacs as advance money to make it 5% of the allotment money. As the petitioner failed to lift the quota, the vend was re-allotted at his risk and cost. Thereafter, the balance amount is sought to be recovered from the petitioner. However, there is nothing on record to suggest that before determination of the amount any opportunity of hearing was afforded to the petitioner. He submitted that as per the Excise Policy for the year 2017-18, no opportunity of hearing was required to be offered in any such circumstances.

After hearing learned counsel for the parties, in our opinion, the matter deserves to be remitted to the Deputy Excise & Taxation Commissioner (Excise), Faridabad, to consider the plea set up by the petitioner that he did not deposit the balance amount to make it 5% of the allotment price as a consequence of which he was treated as allottee of the license. Though it was submitted by learned counsel for the State that he had deposited the amount but we do not record any finding on any of the argument, as it would be appropriate to direct the competent authority to consider that argument on the basis of material available on record with the department or produced by the petitioner. And thereafter take further steps for recovery of the amount, if found due, from the petitioner.

Let the petitioner appear before the Deputy Excise & Taxation Commissioner (Excise), Faridabad on 25.10.2018 at 11.00 A.M. to enable the aforesaid authority to decide the issue after affording opportunity of hearing to the petitioner. Till such time the issue is decided by the Deputy Excise & Taxation Commissioner (Excise), Faridabad, no steps be taken for recovery of the amount. It is directed that the petitioner will not transfer his

right, title and interest in any property to any third party till such time the matter is decided by the aforesaid authority.

The petition stands disposed of accordingly.

(Rajesh Bindal)
Judge

16.10.2018
vs

(Mahabir Singh Sindhu)
Judge

Whether speaking/ reasoned

Whether Reportable

Yes/No

Yes/No