IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6497 of 2019

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Molson Coors Cobra India Pvt. Ltd. a registered company incorporated under the Companies Act, 1956 having its registered office at 1002, 10th Floor, DLF Tower, District Centre Jasola New Delhi-110 025 through its authorized signatory Sri Santosh Kumar Gupa, Male, aged 44 years, son of Late Gupteshwar Prasad Gupta, resident of 88, Near Lal Chowk, Jai Ram Nagar, P.O. and P.S.-Khagaul, Dist-Patna-801105

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Commercial Taxes, Government of Bihar, Patna
2. The Commissioner Commercial Taxes, Bihar, Patna
3. The Deputy Commissioner of Commercial Taxes Danapur Circle, District Patna
4. The Bihar State Beverage Corporation Limited a Government of Bihar Enterprise, through its Managing Director at 1st Floor, Vidyut Bhawan-II, Jawaharlal Nehru Marg, Patna-800001

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Satyabir Bharti, Adv.
For the Respondent/s	:	Mr.Vikash Kumar,SC11
		Mr. Girijesh Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 24-04-2019

We have already recorded the issue which is raised by the petitioner in our order dated 16.04.2019 and which requires no reiteration. Unfortunate part of the litigation is that the matter having been heard by the incumbent on the post of Deputy Commissioner, Commercial Taxes, Danapur Circle, Patna in December, 2018, until filing of this writ petition on 01.04.2019 she did not have the time to pass final orders even when the petitioner was relying upon some similar orders passed by the said authority in similar situation and copies of which are also on record at Annexure-8 series. The plea taken now is that on the advisory issued by the Election Commission of India and since the said Deputy Commissioner, Commercial Taxes had already spent 3 years on the present post that she has been transferred out in February, 2019.

In our opinion Principal Secretary as well as the Commissioner, Commercial Taxes need to address this issue for an assessee cannot be subjected to repeated hearings before different authorities simply because the authority who heard the matter, does not pass final order within a reasonable time. If a matter is heard by the assessing authority exercising quasi judicial function, either in matters relating to assessment/appeal or revision or otherwise, then order disposing the matter needs to be passed expeditiously and perhaps not later than 6 weeks of the conclusion of any hearing which period we thing is sufficient considering the large number of assessments that needs to be dealt with by the department. There may be exceptions to this otherwise normal timeline but then the circumstances existing in such case should justify the reasons for not passing such order by the authority who heard the matter.

In so far as the case in hand is concerned, it is not that Deputy Commissioner, Commercial Taxes has been transferred suddenly rather as informed, the transfer is in view of the advisory issued by the Election Commission for transferring officials having spent 3 years or more on their post. As informed by learned State counsel the transfer came sometime in February 2019 which is two months since the hearing in the matter stood concluded in December, 2018 and as per Mr. Bharti, some orders in similar situation, had been passed by the said authority. In such situation, the delay in disposal becomes questionable.

Let the Principal Secretary and the Commissioner, Commercial Taxes, put our observation into action by issuing necessary advisory to the authorities discharging statutory functions so that litigants are not forced to approach this Court for seeking a relief which entirely rests on the laches of the authority performing quasi judicial function of the present kind where the hearing of a matter having been concluded in December, 2018, until the transfer of the incumbent holding the post of the Deputy Commissioner which came 2 months later, she did not have a time to dispose of the matter even when the plea of the petitioner was and is before this Court that the issue is concluded by different orders passed in similar situation by the same authority. As observed above, We fail to appreciate the time taken by the assessing authority to dispose the matter, if what the petitioner contends, is correct.

Having opined thus and since the new incumbent has joined the post, and is here to stay as per instructions received by Mr. Vikash Kumar, learned S.C.11, considering that the matter has already been delayed, for the present, we allow the petitioner to appear before the present incumbent holding the post of the Deputy Commissioner, Commercial Taxes respondent No.3 on 06.05.2019 at 11 A.M. and when he shall proceed to dispose of the matter expeditiously after opportunity of hearing to the petitioner within a fortnight of the conclusion of the hearing.

With the observations/direction above, this writ petition is allowed.

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

Bibhash

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	29.04.2019
Transmission Date	NA