IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(C) No.2313 of 2019

Tapan Kumar Saha ..... … Petitioner

Versus

1. The State of Jharkhand through the Principal Secretary, Department of Excise & Prohibition, Project Bhawan, Dhurwa, Ranchi.
2. Commissioner of Excise & Prohibition, Project Bhawan, Dhurwa, Ranchi.
3. Deputy Commissioner-cum-District Magistrate, Pakur.
4. Superintendent of Excise, Pakur. …. …. Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Petitioner : Ms. Shilpi John, Advocate
For the Respondents : Mr. Sharad Kaushal, A.C. to A.A.G.-III

05/06.10.2020 The present writ petition is taken up today through Video conferencing.

2. The present writ petition has been filed for issuance of direction upon the respondent-authorities to refund the earnest money amounting to Rs.2,32,034/- deposited by the petitioner with respect to his first application filed towards participating in the process of lottery for settlement of retail excise shops pursuant to advertisement dated 22nd February, 2019 issued by the Commissioner of Excise & Prohibition, Ranchi (respondent no.2) with respect to Group Shop No.13 in the district of Pakur, especially because the petitioner was declared as lottery winner no.1 but no shop was allotted to him. Further prayer has been made for directing the respondent-authorities to refund the earnest money amounting to Rs.2,32,034/- deposited by the petitioner towards his second application for participating in the process of lottery for settlement of retail excise shops pursuant to advertisement dated 22nd February, 2019 issued by the respondent no.2 with respect to Group Shop No.13 in the district of Pakur, especially because the petitioner was not declared as a lottery winner with respect to the said application and, hence, he is entitled for refund of earnest money deposited by him. It has also been prayed for directing the respondent-authorities to refund the earnest money amounting to Rs.2,32,034/- deposited by the petitioner towards his third application for participating in the process of lottery for settlement of retail excise shops pursuant to advertisement dated 22nd February, 2019 issued by the respondent no.2 with respect to Group Shop No.13 in the district of Pakur, especially because the petitioner was not declared as a lottery winner with respect to the said application and, hence, he is

entitled for refund of earnest money deposited by him. The petitioner has also sought declaration of this Court that not refunding the aforesaid amount to the petitioner is arbitrary and illegal.

3. Learned counsel for the petitioner submits that the aforesaid amount deposited by the petitioner as earnest money for participating in the lottery process in relation to Group Shop No.13 in the district of Pakur by filing three different applications has illegally been withheld by the respondent-authorities, despite the fact that no retail liquor shop was allotted to the petitioner against the said applications. It is further submitted that the petitioner has preferred an application for refund of earnest money deposit before the Superintendent of Excise, Pakur (respondent no.4) in consonance with the condition stipulated under Chapter-IV Clause 23 Sub Clause-2 of the Jharkhand Excise (Settlement and Operation of Retail Liquor Shop) Rules, 2018 notified vide Gazette notification dated 25th December, 2018 pertaining to Settlement and Management of Shops for retail outlet of liquor, but no decision has been taken by the said authority.

4. Mr. Sharad Kaushal, learned A.C. to A.A.G.-III appearing on behalf of the respondents submits that since the Rule itself provides for refund of the earnest money deposit to the applicant on his/her being declared unsuccessful in the lottery process, the petitioner may prefer a fresh representation on the present issue before the appropriate authority i.e., respondent no.4 and the said authority will take an appropriate decision within a specified period.

5. Having heard learned counsel for the parties and without entering into the merit of the petitioner's claim for refund of earnest money deposit, he is given liberty to prefer a fresh representation before the respondent no.4 on the present issue. On receipt of the said representation, the respondent no.4 after verifying the relevant records and on providing adequate opportunity of hearing to the petitioner/his representative, shall take an informed decision within a period of four weeks from the date of filing of the representation.

6. The present writ petition is, accordingly, disposed of with aforesaid liberty and direction.

(Rajesh Shankar, J.)

Rohit/