IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP No. 9187 of 2020 (O&M)

Date of decision : 28.08.2020

Satish Sood and another

.... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present : Mr. H. S. Brar, Advocate for the petitioners.
Mr. Pankaj Gupta, Addl. A. G., Punjab.

* * *

DAYA CHAUDHARY, J.

Case has been heard through video conferencing in view of COVID-19 Pandemic.

CM No.6646 of 2020

This application is for placing on record recovery notices and photographs as Annexures P-16 to P-18.

Application is allowed and the recovery notices and photographs Annexures P-16 to P-18, annexed with the application, are taken on record.

CM No. 7321 of 2020

This application is for placing on record replication to the written statement filed on behalf of respondents No.1 to 5.

Application is allowed and the replication annexed with the application is taken on record.

<u>CM No. 8333 of 2020</u>

This application is for placing on record the counter affidavit along with Annexures P-19 to P-22.

Application is allowed and the counter affidavit along with Annexures P-19 to P-22, annexed with the application, are taken on record.

<u>CWP No. 9187 of 2020</u>

The petitioners are aggrieved by the action of the respondent-authorities in not granting the same benefit of rebate which has been granted in three districts *i.e.* Jalandhar, Ludhiana and Amritsar and claiming parity with said districts. They are also aggrieved by the action of the respondent-authorities as they have been left out while granting 20% relaxation in MGR, whereas similarly situated liquor zones in Municipal Corporations, Amritsar, Jalandhar and Ludhiana have been given 20% rebate in MGR.

Learned counsel submits that 20% rebate has been given with regard to minimum guaranteed revenue (MGR) in three Municipal Corporations of Ludhiana, Jalandhar and Amritsar, whereas for the rest of the State of Punjab, it is only 10%. Learned counsel also submits that due to Covid-19, the opening of liquor vends and sale of liquor has become difficult and to go with the contract between the petitioners and the respondent-State has become impossible.

Learned counsel further submits that the contract between the petitioners and the Excise Department was to be commenced w.e.f. 01.04.2020 but due to Covid-19, it could not be started. The respondent authorities have unilaterally changed the conditions of the Excise Policy of 2020-21 and minimum guaranteed revenue has been increased by 8% from the year 2019-20 and that too without taking the consent of the petitioners.

Due to change in the policy and the present situation, the petitioners have been compelled to pay 12% additional revenue on the minimum guaranteed revenue for the year 2019-20 and 8% additional increase has been made in the minimum guaranteed revenue. Learned counsel also submits that the respondent authority cannot change the condition of the contract without consent of the petitioners.

Learned counsel further submits that running of the business in future is also uncertain as the same situation is likely to be continued in future also. At the end, learned counsel for the petitioners submits that the respondent-authorities are putting pressure to pay the monthly instalment and to open their shops.

Learned counsel for the petitioners has relied upon the judgment passed by the Division Bench of Madhya Pradesh High Court in a bunch of writ petitions including ***Writ Petition No.7373 of 2020*** titled as ***Maa Vishno Enterprises through its Partner and others Vs. The State of Madhya Pradesh and others***, in support of his arguments.

Learned State counsel submits that as per the Excise Policy, 20% rebate has been given in three Municipal Corporations of Ludhiana, Jalandhar and Amritsar and in remaining districts it is 10%. He further submits that the variation in the price fixation is there in the districts because of demand and supply.

Heard arguments of learned counsel for the parties. We have also perused the documents available on the file as well as policy of the State Government and the terms and conditions of the Excise Policy.

No doubt the petitioners have made representations but all these facts and figures have not been mentioned in any representation. The parity has been claimed with other districts like Amritsar, Jalandhar and Ludhiana in granting rebate of 20% in minimum guaranteed quota. However, a justification has been made by respondent-State in the reply but the claim of the petitioners has not been considered keeping in view the peculiar facts and circumstances of the case including the present situation arising due to Covid-19.

Accordingly, the petitioners are at liberty to make a detailed representation to respondent No.3 - Excise and Taxation Commissioner, Punjab by mentioning all the facts within a period of two weeks from the date of receipt of certified copy of this order. Respondent No.3-Excise and Taxation Commissioner, Punjab is directed to take action on the representation in accordance with law and by considering the averments made in the petition as well as Division Bench Judgment of Madhya Pradesh High Court in ***Writ Petition No.7373 of 2020*** (supra) within a period of four weeks from the date of submission of representation. In case the petitioners are required to be heard by the respondent-authority, they be given opportunity of hearing. In case the petitioners are still aggrieved, they are at liberty to avail appropriate remedy available under law.

(DAYA CHAUDHARY)
JUDGE

Dated : 28.08.2020
sunil yadav

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No