

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5254 of 2014

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Sona Sati Organics Pvt. Ltd. P.O. Boring Canal Road, P.S. Budha Colony,
District Patna And Works At Raja Patti Kothi P.O. And P. Through Its
Director Rakesh Kumar Son Of Shri Bhagwan Das, Resident Of 54 Harihar
Apartment, East Boring Canal Road, P.O. Boring Canal Road, P.S. Budha
Colony, District Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Secretary, Registration, Excise and Prohibition Department, Bihar, Patna
2. The Member, Board Of Revenue, Bihar, Patna.
3. The Excise Commissioner, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Satyabir Bharti, Advocate
For the Respondent/s : Mr.Lalit Kishore, AG

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

18 16-12-2021

Petitioner has prayed for the following relief(s):

(i) An appropriate writ be issued to declare the Bihar Liquor (Price Fixation & Control) Rules, 1994 framed by the Board of Revenue in exercise of purported powers conferred under section 90 of the Bihar Excise Act, 1915 inter alia empowering itself to fix the price and quantity of rectified spirit to be supplied by the distilleries to the manufacturers of country and spiced country liquor as *ultra vires* the Constitution of India and power of the Board of Revenue conferred under section 90 of the Bihar Excise Act, 1915 (hereinafter referred to as 'the Act');



(ii) For a declaration that the Bihar Liquor (Price Fixation & Control) Rules, 1994 and notification issued thereunder is in excess of section 90 of the Bihar Excise Act as well as power of the State legislature to enact such rules and is manifestly unjust and arbitrary in view of the settled proposition of law in the Constitution Bench decision of the Hon'ble Apex Court in the case of Synthetics and Chemicals Ltd. & Ors vs State of U.P. & Ors, reported in (1990)1 SCC 109 wherein it has been categorically held that the State has no jurisdiction to impose any restriction on the movement of Industrial alcohol and/or spirit of over proof strength and as such having regard to entry 52 of List I of the 7th Schedule of the Constitution of India, industrial alcohol even though being used as a raw material for manufacture of potable liquor cannot be a subject matter or control by the State, it being not alcoholic liquor for human consumption;

(iii) To quash the notification dated 3rd October, 2013 issued and notified by the Board of Revenue in the official gazette by which under purported exercise of powers conferred under Rule 3 of the Bihar Liquor (Price Fixation & Control) Rules, 1994, the Board of Revenue has directed the petitioners



and other distillers to supply rectified spirit and rectified spirit Grade I at the rate of Rs.28 and Rs.28.80 per Bulk Liter respectively to the manufacturers of country and spiced country liquor holding licenses in Form 27 and 27A;

(iv) For restraining the Respondents from taking any coercive action in pursuance to the impugned Rule and notification dated 3rd October, 2013 issued under Rule 3 of the aforesaid impugned Rules;

(v) Pass such other order/s as your lordships may deem fit and proper in the facts and circumstances of the present case.

Learned counsel for the petitioner seeks permission to withdraw the present petition for the reason that the grievances of the petitioner stand redressed.

Petition is disposed of as having become infructuous.

Interlocutory application, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/-

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