IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16289 of 2017

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M/s Riga Sugar Co. Ltd., Distillery Division, having registered office at 14 Netaji Subhash Road, Kolkata – 700001 and having Distillery Plant at Riga, District – Sitamarhi, Bihar through its Chief General Manager, Dr. Sukhbir Singh Mallic, Son of Shri Bijpal Singh, resident of Riga Sugar Co. Ltd., Riga, Sitamarhi.

... ... Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Excise and Prohibition, Government of Bihar, Patna.
2. The Principal Secretary, Excise and Prohibition, Government of Bihar, Patna.
3. The Excise Commissioner, Bihar, Patna.
4. The Deputy Commissioner, Excise, Bihar, Patna.
5. The Collector, Muzaffarpur.
6. The Superintendent of Excise, Muzaffarpur.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr.Ashish Giri, Advocate
For the Respondent/s : Mr. Vikash Kumar, SC 11

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 09-02-2021

Petitioner has prayed for the following relief(s):

> "i. To issue an appropriate writ, order, direction in the nature of certiorari for quashing the demand dated 28.12.2015 issued under the Signature of the Collector, Muzaffarpur received by the petitioner on 21.10.2017 by which the petitioner has been directed to deposit an amount of Rs.98,06,513.00 as penalty under section

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42(g), (h)(ii) of the Bihar Excise Act, 1915 for supply of sub standard liquor in terms of chemical examination report dated 08.08.2015. (Annexure-12).

ii. To issue an appropriate writ, order, direction in the nature of certiorari for quashing the chemical examination report dated 08.08.2015 in relation to sample collected from BSBCL Depot., Sheohar. (Annexure-3).

iii. To issue an appropriate writ, order, direction in the nature of certiorari for quashing the order dated 24.11.2015 bearing no. 3556 issued by the Excise Commissioner, Bihar, Patna holding petitioner guilty for supply of sub-standard liquor on the basis of inspection of samples collected from BSBCL Depot, Sheohar and accordingly directed for issuance of notice for payment of penalty in terms of section 42 (g) (h) (ii) (Annexure-6).

iv. To issue an appropriate writ, order, direction in the nature of certiorari for quashing the letter no. 2749 dated 13.09.2017 issued under the signature of the Deputy Commissioner Excise, Bihar, Patna by which the Collector Muzaffarpur has been directed to take necessary steps for recovery of amount of Rs. 98,06,513.00 from the petitioner for causing revenue loss to the Government.

v. To issue an appropriate writ, order, direction in the nature of certiorari for quashing the letter no. 1056 dated 15.09.2017 issued under the signature of Collector Muzaffarpur by which

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the petitioner in terms of letter no. 2749 dated 13.09.2017 has been directed to deposit Rs. 98,06,5 13.00 in the government treasury.

vi. To issue an appropriate writ, order, direction in the nature of certiorari for quashing the letter no. 1152 dated 05.10.2017 issued under the Signature of Superintendent of Excise, Muzaffarpur by which the petitioner in terms of letter no. 2749 dated 13.09.2017 has been directed to deposit Rs. 98,06,513.00 in the government treasury failing which necessary action will be taken.

vii. To hold and declare that the entire demand holding the petitioner guilty of supplying sub-standard liquor based on an ex-parte inspection dated 08.08.2015 is violative of Article 14 of Constitution of India and also wholly without jurisdiction.

viii. To issue an appropriate writ, order, direction in the nature of mandamus directing the respondent authorities to permit the petitioner to operate its distillery situated at Riga without any hindrance.

ix. To issue appropriate interim/ ex-parte interim order staying the operation of the impugned demands and/or prevent the authorities from taking any coercive steps for recovery of the said amount.

x. To issue any other relief for which the petitioner is entitled for."

The short point which arises for consideration is as

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to whether the authority passing the impugned order dated 24.11.2015 vide letter No.3556, was empowered under the provisions of Bihar Excise Act, 1915 (hereinafter referred to as the Act) to pass such an order or not.

It is not in dispute that the impugned order dated 24.11.2015 was passed by Excise Commissioner, Bihar, Patna vide No.3556 (Annexure-6). Also, it is not in dispute that under the Statute, i.e. Section 42 of the Act, the authority prescribed by the Government who granted the licence, was the Collector and not the Commissioner. It is under these circumstances, we are inclined to interfere and remand the matter afresh to the authority prescribed, i.e. the Collector, who had granted the licence.

Today, there is no dispute of the identity of such authority.

As such, we quash the impugned order dated 24.11.2015 passed by Excise Commissioner, Bihar, Patna with direction to the parties to appear before the Collector, Muzaffapur on 22.02.2021, at 10:30 a.m.

Since the proceedings pertain to the year 2014-2015, we expedite the process with a further direction to the authority to positively conclude the proceedings on or before

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31st of March, 2021.

Parties undertake to fully co-operate in the proceedings.

Needless to add, all issues of fact and law are left open to be raised by the parties and to be adjudicated by the authority.

Petition stands disposed of with the aforesaid observations and directions.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/DKS-

AFR/NAFR	
CAV DATE	
Uploading Date	12.02.2021
Transmission Date	

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