

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1539 of 2021

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Ashish Kumar, Son of Sri Babu Nand Yadav, Resident of Golaghat Dumari,
P.S. Yogapatti, District-West Champaran, Bettiah

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Excise Commissioner, Bihar, Patna.
3. The Collector, West Champaran, Bettiah.
4. The Superintendent of Excise, Bettiah
5. The Certificate Officer, Bettiah.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satyabir Bharti, Advocate
For the Respondent/s : Mr. Vivek Prasad, G.P.-7.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

Date : 12-07-2021

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s).

“ (I) Issuance of appropriate writ(s), order(s) & directions(s), to hold and declare that the security deposit being an amount deposited assuring due compensation in case of default of payment, the security deposit furnished by the petitioner against settlement of Group no. 43 retail liquor shops, in the District of West Champaran, Bettiah for the year 2015-16 is liable to be adjusted against the outstanding dues of license fee;



(ii) Directing the respondents to adjust the security deposit of Rs. 4,25,280/- along with interest accrued on the same, which has already been recovered recovered/ realized from the Foxed Deposit receipts submitted by the petitioner at the time of settlement, against the outstanding dues of license fee against Group no. 43 retail liquor shops settled with the petitioner for the year 2015-16.

(iii) To quash the consequential Certificate proceedings initiated vide Certificate Case No. 41/2016-17 pending before the District Certificate Officer, Bettiah by which proceeding has been initiated for recovery of the alleged outstanding dues of license fee;

(iv) To pass such other writ(s), order(s), directions(s) as your Lordships may deem fit and proper in the facts and circumstances of the case .”

Shri Satyabir Bharti, learned counsel for the petitioner, states that petitioner’s case is squarely covered vide judgment dated 26th July, 2017 passed in CWJC No. 18598 of 2015, titled as **Upendra Kumar vs. The State of Bihar & Ors.**, and its analogous cases, and that the instant petition be disposed of in terms of order dated 21st September, 2017 passed by a coordinate Bench of this Court in CWJC No. 11893 of 2017, titled as **Pramod Singh vs. The State of Bihar & Ors.**, and its analogous cases.

He further states that the authority be directed to



consider the petitioner's case expeditiously.

On the other hand, Shri Vivek Prasad, learned Government Pleader No. 7, states that he has no objection with the matter being remanded to the appropriate authority for consideration of the petitioner's case on its own merit in accordance with law. Whether the petitioner's case would be covered or not is left open for the authority to consider.

As such, as jointly prayed for, we dispose of the present petition directing the appropriate authority, under the provisions of the Bihar Prohibition and Excise Act, 2016, to consider and decide the petitioner's case in terms of judgment dated 26th July, 2017 passed in case of **Upendra Kumar** (supra) Patna High Court CWJC No.10769 of 2020 dt. 21-05-2021 as also order dated 21st September, 2017 passed in case of **Pramod Singh** (supra).

We clarify that all issues of facts and law are left open.

Also, we have not gone into the issue as to whether the petitioner's case is similarly situated as that of petitioners in **Upendra Kumar** (supra) and **Pramod Singh** (supra).

We only hope and expect that the authority to consider and decide the petitioner's case expeditiously and



preferably within a period of four months from the date of placing a copy of this order along with a written request to be made by the petitioner.

The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, also stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/veena-

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

