

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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CWP No.23143 of 2021

Date of decision: 30.11.2021

M/s Mohan Lall Mukand Lall and Co. through
its Proprietor Vinay Mehra

..... Petitioner

Versus

State of Haryana and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MR. JUSTICE PANKAJ JAIN**

Present:- Mr. Sandeep Goyal, Advocate and
Mr. Abhinav Sood, Advocate for the petitioner.

Ms. Shruti Jain Goyal, DAG, Haryana.

AJAY TEWARI, J.(ORAL)

Yesterday, the following order was passed:-

“At the first instance, learned DAG, Haryana on instructions states that the order dated 07.09.2021 was actually passed on 08.11.2021 and seeks a short adjournment to file reply.

Learned counsel for the petitioner states that if this is so, then it is clear that the petitioner was not heard or fresh material collected against it was not put to it before passing the order which is now accepted to have been passed on a subsequent date. Moreover, the entire duty in this case stands paid. Further under the conditions of licence granted to the petitioner, he has to pick a fix quota of foreign liquor and in view of the fact that he is not allowed to run his business, he would not be able to lift this quota. Moreover, liquor worth Rs.1.5 crores is already in the custody of the Department and therefore, it is prayed that order of cancellation of licence be suspended.

In our considered opinion, that may not be a correct approach since that may amount to giving the same relief to the petitioner by way of interim measure which is seeking as a final outcome. However, it is declared that since it is the State who have been repeatedly taking time to file the reply, the failure of the petitioner to lift its quota would not be held against it till the next date of hearing.

Learned State counsel will file the written statement with an advance copy to learned counsel for the petitioner.

Adjourned to 30.11.2021.

Today, learned DAG, Haryana states that in any case the impugned order was passed after considering the reply of the petitioner and consequently, it may not be entirely correct to state that the petitioner was never heard.

In our opinion, it is not a complete answer. The issue was that after the reply was filed, comments were sought by the respondents from their officers and then the impugned order was passed without putting that material to the petitioner. Consequently, even though the reply of the petitioner may have been considered, it has to be also seen at the same time that the reply was inchoate as it did not deal with the contentions which later came to the notice of the authorities.

In the circumstances, without going further into the merits of the case, we deem it appropriate to set aside the impugned order and direct the authority to pass a fresh order after allowing the petitioner to file a fresh reply and then hearing it.

Let the petitioner file the fresh reply within one week and thereafter, appear through the authorized representatives before the competent authority on 09.12.2021 at 10.00 AM for hearing and on any other date when the competent authority requires his presence. The necessary order to be passed within a period of 2 weeks from that order.

Petition stands disposed of.

(AJAY TEWARI)
JUDGE

30.11.2021
D.Bansal

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No