IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8348 of 2022

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Nirmal Kumar Gupta, Son of Late Shri Chandeshwar Prasad, Resident of Chitkohra Bazaar, P.S. Gardanibagh, District-Patna.

... ... Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Prohibition Excise and Registration Department, Bihar, Patna.
2. The Excise Commissioner, Bihar, Patna.
3. The Assistant Commissioner of Excise, Patna.

... ... Respondent/s

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(The proceedings of the Court are being conducted by Hon'ble the Chief Justice /Hon'ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences /offices.)

Appearance :

For the Petitioner/s	:	Ms.Prachi Pallavi,Adv
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 MR. JUSTICE S. KUMAR)

Date : 22-07-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

> "(i) Issuance of a writ of certiorari, quashing the order dated 11.01.2018 passed by the Assistant Commissioner of Excise, Patna as contained in Memorandum No. 109A wherein the respondent no. 3 namely, Assistant Commissioner of Excise, Patna, has held that the petitioner is not entitled to get any further amount towards his claim for compensation of Rs. 73,007/- except the amount already paid to him which is Rs. 22,927/-(Annexure-P/3, Pg-27).

> (ii) To direct the respondents to refund the amount calculated in terms of Rs. 146 of the Rules framed under section 90 of the Bihar Excise Act, 1915 on account of extra closure of the retail liquor shops of the petitioner for the year 1989-90, 1991-92, 1992-93 and 1993-94 including the loss of profits @ 20% on the estimated sale prescribed under the statute as well interest at 12% per annum from the date the petitioner became entitled for refund to the date of actual refund of the amount to the petitioner;"

Seeking award of compensation under Rule 146 of the Rules framed under Section 90 of the Bihar Excise Act, 1915, this writ petition has been filed on account of closure of the retail liquor shops of the petitioner for the financial years 1989-90, 1991-92, 1992-93 and 1993-94. During pendency of the matters, respondents had taken action and after some documents supplied by the petitioner, the demand draft for a sum of Rs.22,927/- has been issued to the petitioner vide demand draft dated 04.04.2017. The learned counsel for the petitioner submits that neither the claim of petitioner, which was the claim for compensation of Rs.73,007/-, has been settled in accordance with law nor the particulars based on which the calculation of compensation at Rs.22,927/- arrived at are supplied. That apart, it is stated that the interest amount has not been paid. Once during pendency of the matter, the claim of petitioner has been settled in accordance with calculation made by the respondents at Rs.22,927/-, in case the petitioner has any grievance still subsisting, he may raise further claim along with documents in support of the same before the Assistant Commissioner of Excise, Patna (respondent no.3) and the Assistant Commissioner, after examining the claim of petitioner, shall decide it in accordance with law by a speaking order within 60 days.

With the aforesaid observation, this petition stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

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