

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7463 of 2020

Malson Coors Cobra India Pvt. Ltd. a registered Company incorporated under the Companies Act, 1956 having its registered office at 501, DLF Tower-B, District Centre Jasola, New Delhi- 110 025 through its authorized signatory Sri Santosh Kumar Gupta, Male, aged 44 years, son of Late Gupteshwar Prasad Gupta, resident of 88, Near Lal Chowk, Jai Ram Nagar, P.O. and P.S. Khagaul, Dist- Patna- 80105.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Excise Commissioner, Bihar, Patna.
3. The Assistant Commissioner of Excise, Patna.
4. The Bihar State Beverage Corporation Limited, a Government of Bihar Enterprises, having its registered office at 1st Floor, Vidyut Bhawan- II, Jawaharlal Nehru Marg, Patna 800001 through its Managing Director.
5. The General Manger, Operation- I, The Bihar State Beverage Corporation Limited, a Government of Bihar Enterprises, having its registered Office at 1st Floor, Vidyut Bhawan- II, Jawaharlal Nehru Marg, Patna- 800001.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 7467 of 2020

Molson Coors India Pvt. Ltd. (Formely Mount Shivalik Breweries Pvt Ltd) a registered company incorporated under the Companies Act, 1956 having its corporate office at 501, DLF Tower-B, District Centre Jasola, New Delhi- 110025 through its authorized signatory Sri Santosh Kumar Gupta, Male, aged 44 years, Son of Late Gupteshwar Prasad Gupta, resident of 88, Near Lal Chowk, Jai Ram Nagar, P.O. and P.S.- Khagaul, Dist.- Patna- 80105.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Excise Commissioner Bihar, Patna.
3. The Assistant Commissioner of Excise Patna.
4. The Bihar State Beverage Corporation Limited A Government of Bihar Enterprises, having its registered office at 1 st Floor, Vidyut Bhawan-II, Jawaharlal Nehru Marg, Patna- 800001 through its Managing Director.
5. The General Manager Operation-I, The Bihar State Beverage Corporation Limited, A Government of Bihar Enterprises, having its registered office at 1 st Floor, Vidyut Bhawan-II, Jawaharlal Nehru Marg, Patna- 800001.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 4652 of 2021



United Breweries Limited a registered company incorporated under the Companies Act, 1956 having its registered office at U.B. Tower, U.B. City No. 24, Vittal Mallya Road, Bangalore- 560001 and factory at Plot No. A 1, Industrial Area, Kopakala, P.S.- Naubatpur, District- Patna through its Authorized Signatory Amarish Kumar Singh, Male, aged about 40 years, son of Sri Rais Pal Singh, resident of 114, Lohia Vihar, Sector 9, Indira Nagar, Lucknow, Uttar Pradesh- 226016.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Excise Commissioner, Bihar, Patna.
3. The Assistant Commissioner of Excise, Patna.
4. The Bihar State Beverage Corporation Limited, a Government of Bihar Enterprises, having its registered office at 1st Floor, Vidyut Bhawan- II, Jawaharlal Nehru Marg, Patna- 800001 through its Managing Director.
5. The General Manager, Operation- I, The Bihar State Beverage Corporation Limited, a Government of Bihar Enterprises, having its registered office at 1st Floor, Vidyut Bhawan- II, Jawaharlal Nehru Marg, Patna- 800001.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 8853 of 2021

1. Colona Blenders and Bottlers (India) Pvt. Ltd. a private limited company having its registered office at Janki Vila, Basant Vihar Colony, Boring Road, Patna- 800001, through its authorized Signatory Ranjeet Kumar Singh, Male, aged 35 years, son of Shri Rajeshwar Prasad Singh, resident of Eliza- 10, P.S. Uttar Para, Hoogly, West Bengal- 712233.
2. Anusuya Blenders Pvt. Ltd. a private limited company having its registered office at Goldar Patti, Nath Nagar, Bhagalpur, Bihar, through its authorized Signatory Ranjeet Kumar Singh, Male, aged 35 years, son of Shri Rajeshwar Prasad Singh, resident of Eliza- 10, P.S. Uttar Para, Hoogly, West Bengal- 712233.
3. Chitwan Blenders and Bottlers Pvt. Ltd. a private limited company having its registered office at Khagaul Road, Danapur- 801503, Patna, Bihar, through its authorized Signatory Ranjeet Kumar Singh, Male, aged 35 years, son of Shri Rajeshwar Prasad Singh, resident of Eliza- 10, P.S.- Uttar Para, Hoogly, West Bengal- 712233.
4. Saibya Liquors Private Ltd. a private limited company having its registered office at 91, Koat Bazaar, Sitamarhi, Bihar- 843302, through its authorized Signatory Ranjeet Kumar Singh, Male, aged 35 years, son of Shri Rajeshwar Prasad Singh, resident of Eliza- 10, P.S. Uttar Para, Hoogly, West Bengal- 712233.
5. Allied Blenders and Distillers Pvt. Ltd., a private limited company having its registered office at 394-C, Lamington Chambers, Lamington Road, Mumbai- 400004 through its authorized Signatory Ranjeet Kumar Singh,



Male, aged 35 years, son of Shri Rajeshwar Prasad Singh, resident of Eliza-10, P.S. Uttar Para, Hoogly, West Bengal- 712233.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Excise Commissioner, Bihar, Patna.
3. The Assistant Commissioner of Excise, Patna.
4. The Bihar State Beverage Corporation Limited, a Government of Bihar Enterprises, having its registered office at 1st Floor, Vidyut Bhawan- II, Jawaharlal Nehru Marg, Patna- 800001 through its Managing Director.
5. The General Manager, Operation- I, The Bihar State Beverage Corporation Limited, a Government of Bihar Enterprises, having its registered office at 1st Floor, Vidyut Bhawan- II, Jawaharlal Nehru Marg, Patna- 800001.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 7463 of 2020)

For the Petitioner/s : Mr. Satyabir Bharti, Advocate
Mr. Abhishek Anand, Advocate
Ms. Kanupriya, Advocate
For the State/BSBCL : Mr. Lalit Kishore, Sr. Advocate assisted by
Mr. Girijish Kumar, Advocate
Mr. Vikash Kumar, Advocate
Mr. Vivek Prasad, GP 7
Ms. Roona, AC to GP 7
Mr. Sanjay Kumar, AC to GP 7

(In Civil Writ Jurisdiction Case No. 7467 of 2020)

For the Petitioner/s : Mr. Satyabir Bharti, Advocate
Mr. Abhishek Anand, Advocate
Ms. Kanupriya, Advocate
For the State/BSBCL : Mr. Lalit Kishore, Sr. Advocate assisted by
Mr. Girijish Kumar, Advocate
Mr. Vikash Kumar, Advocate
Mr. Vivek Prasad, GP 7
Ms. Roona, AC to GP 7
Mr. Sanjay Kumar, AC to GP 7

(In Civil Writ Jurisdiction Case No. 4652 of 2021)

For the Petitioner/s : Mr. Satyabir Bharti, Advocate
Mr. Abhishek Anand, Advocate
Ms. Kanupriya, Advocate
For the State/BSBCL : Mr. Lalit Kishore, Sr. Advocate assisted by
Mr. Girijish Kumar, Advocate
Mr. Vikash Kumar, Advocate
Mr. Vivek Prasad, GP 7
Ms. Roona, AC to GP 7
Mr. Sanjay Kumar, AC to GP 7

(In Civil Writ Jurisdiction Case No. 8853 of 2021)

For the Petitioner/s : Mr. Satyabir Bharti, Advocate
Mr. Abhishek Anand, Advocate
Ms. Kanupriya, Advocate
For the State/BSBCL : Mr. Lalit Kishore, Sr. Advocate assisted by
Mr. Girijish Kumar, Advocate



Mr. Vikash Kumar, Advocate
Mr. Vivek Prasad, GP 7
Ms. Roona, AC to GP 7
Mr. Sanjay Kumar, AC to GP 7

**CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA**

**ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)**

Date : 20-03-2024

In all these four matters, issue is relating to levy of demurrages and such determined demurrages was to be adjusted with the deposited amount pursuant to the tender notification dated 12.03.2016. The demurrage period is stated to be for the period from 05.04.2016 to 31.07.2017. Bihar State Beverage Corporation Limited (hereinafter referred to as 'BSBCL') have floated Liquor Sourcing Policy for the year 2016 – 2017 under Paragraph No. 3 *namely* submission of initial documents, Clause (d) would suffice to adjust demurrages to that of deposits. On the other hand, learned counsel for the petitioners pointed out Clauses 4 and 5 which are relating to Acceptance of proposals and Execution of contract documents etc. Be that as it may, Clause 24 is relating to Dues recovery process and it reads as under:

“24. Dues recovery process

Any outstanding liability or dues since the inception of BSBCL, not honoured by the manufacturer/suppliers shall be treated as public



demand under Bihar & Orissa Public Demand Recovery Act and it shall be recovered by the procedure laid down for the same in the Bihar & Orissa Public Demand Recovery Act.”

2. The respondents – BSBCL counsel have not pointed out any other provision so as to support their impugned decision insofar as levying demurrages read with the adjustment of demurrages towards security deposit made by the respective petitioners with reference to participation in the tender process dated 12.03.2016. Therefore, impugned actions are not in terms of conditions stipulated in the Liquor Sourcing Policy for the year 2016 – 2017. On other hand, BSBCL have not resorted to Clause 24 cited *supra*. Thus the petitioners have made out a case so as to interfere with the impugned order dated 13.08.2019 as contained in Memo No. Op-1/103/13-14/460 passed in CWJC No. 7463 of 2020 and CWJC No. 7467 of 2020, order dated 26.09.2019 as contained in letter no. 567 passed in CWJC No. 4652 of 2021, order dated 26.09.2019 (Annexure 16) passed in CWJC No. 8853 of 2021. Accordingly, they are set aside.

3. Reserving liberty to the BSBCL to proceed afresh insofar as levying of demurrages. In this regard, detailed show cause notice shall be issued to each of the petitioner supported by documents. On receipt of such notice, each of the petitioner has to



furnish their explanation within one month from the date of receipt of such notice. Thereafter, the concerned authority is hereby directed to proceed to pass order after due consideration of each of the contention to be raised by each of the petitioner and pass a detailed speaking order. The above exercise shall be undertaken within a period of six months from today.

4. Each petitioner is entitled to refund of deposited amount, pursuant to the tender notification dated 12.03.2016. Such deposited amount lying with the BSBCL shall be disbursed in favour of the petitioners after following due procedure within a period of two months from the date of receipt of this order.

5. Accordingly, writ petitions stand disposed of.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.03.2024
Transmission Date	NA

