IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.2608 of 2017

Decided on: 31.10.2026

M/s S.S. & Co. VPO Anti, Tehsil Jubbal
District Shimla ... Petitioner

Versus

State of Himachal Pradesh and others ... Respondents

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge.
Hon'ble Mr. Justice Yogesh Jaswal, Judge.

Whether approved for reporting?[1]

For the petitioner:	Mr. Arvind Sharma, Senior Advocate, with Mr. Amit Thakur, Advocate.
For the respondents:	Mr. Pushpinder Jaswal, Additional Advocate General.

Ajay Mohan Goel, Judge (Oral)

By way of this petition, the petitioner has, *inter alia*, prayed for the following reliefs:-

> "*a) That appropriate writ/direction be issued to respondent to reduce minimum guarantee quota and license fee of petitioner Excise Unite Sawra as said Excise Unit was auctioned by cheating petitioner through false document in Shimla District for the year 2017-2018 (Annexure P-3) issued by respondents to cheat petitioner in order to get higher auction bid in auction of Excise Unite Sawra, on 19-06-2017 four liquor vends in Excise Unite Sawra were closed by respondent department and petitioner was directed to shift liquor vends beyond 230 meters away from Hatkoti Meenus road due to which there is considerable 2017 decline in sale of liquor hence in the changed circumstances it is not possible to achieve Minimum Guarantee Quota & License Fee and the same*

[1] *Whether reporters of the local papers may be allowed to see the judgment?*

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deserved to be reduced in proportion.

b) That appropriate writ/direction be issued to respondents that in view of facts and circumstances of the case, Excise Vends of Excise unit Sawra remained closed due to arbitrary, illegal and unprofessional Acts of respondent department without any fault of petitioner whatsoever hence respondents be directed to reschedule/ reduce Minimum Guarantee Quota of petitioner excise unit along with License Fee in proportion keeping into consideration aforesaid facts, no license fee for the period which liquor vends of petitioner remained closed be not claimed from petitioner and for the period their minimum guarantee quote in proportion be reduced, as it was respondent department who did not permit petitioner to open its Excise Vends.

c) That Minimum Guarantee Quota of petitioner excise unit along with License Fee in proportion be reduced /rescheduled keeping into consideration aforesaid facts into consideration and the same be kindly assessed and fixed by Hon'ble Court as deem fit in the facts and circumstance of the present case as respondent department will not accept /agree to their wrong acts and will again act in a very arbitrary manner.

d) In view of facts and circumstances as mentioned in the civil writ petition, writ in the nature of mandamus be issued, directing respondent to refund the proportional License Fee, Additional Licensee Fee Or Penalty if any imposed upon petitioner for not achieving Minimum Guarantee Quota as per condition No 4.3 of Announcements of Excise Allotment/Tenders for the year 2017-18 (Annexure P-2), particularly in view of the fact

that it is was due to circulated unit/vend-wise details of Quota, License fee, in Shimla District for the year 2017-2018 (Annexure P-3) which made petitioner to make a bid for Excise Unite Sawara Depot and said circulated unit/vend-wise details of Quota, License fee, in Shimla District for the year 2017-2018 (Annexure P-3) was informed to be wrong and vends of Petitioner were closed and shifted more than 230 meters beyond Hatkoti Meenus road which resulted in loss of business to petitioner.

e)That the respondents may very kindly be directed refund additional fee and penalty if any imposed upon petitioner during pendency of this petition before this Hon'ble Court if on account of not lifting/selling the minimum guarantee quota and further may also be directed not to levy any penalty on the same account for the year 2017-18 in the given facts and circumstances of the case.

f) That respondents be directed to compensate Petitioner for DAY TOD the loss suffered by them due to non-availability liquor due V281 to unprofessional acts and conduct of respondents.

g) That the complete record of the case may kindly be summoned for the kind perusal of this Hon'ble Court."

2. In a nutshell, as was submitted by learned Senior Counsel appearing for the petitioner, the grievance of the petitioner is that the petitioner participated in the auction of certain liquor vends and at the time of the auction, out of seven liquor vends, for which the petitioner was bidding, five were situated at places which

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were feasible from the commercial perspective as they were on the Hatkoti-Meenus road. However, after the bid was accepted and after the petitioner set up business in the vends in issue, somewhere in the month of June, 2017, the vends of the petitioner were closed by the respondents. The petitioner was informed that the road in front of the vends was National Highway-707, which the Department had earlier failed to note and the petitioner was directed to shift the vends 230 meters away from the National Highway. According to the petitioner, on account of said shifting, the vends remain closed for about two weeks as the petitioner had to search for new accommodation and constructed sheds and passages etc. This resulted in grave losses to the petitioner and it is in this backdrop that the petitioner has approached this Court with the relief prayed for hereinabove.

3. A perusal of the relief clause *inter alia* demonstrates that the petitioner is calling upon this Court to issue a mandamus by declaring that the petitioner was cheated by the respondents on the basis of false documents qua the circulated unites/vends and details of quota with the intent to get higher auction amount in the bidding process from the petitioner and after returning the findings of the respondents having cheated the petitioner, the other reliefs prayed for in the petition be granted to him.

4. This Court is of the considered view that in exercise of

its jurisdiction under Article 226 of the Constitution of India, no such findings can be returned. Whether or not, the conduct of the respondents as alleged by the petitioner amounts to 'cheating', can only be determined by a competent Court of Law. Because 'cheating' is a criminal offence and for that the petitioner would have been well advised to have had approached the appropriate Fora for the redressal of his grievances.

5. Similarly, whether of not, the alleged losses suffered by the petitioner are attributable to acts of omission or commission of the respondents is a question of fact, which an appropriate Court can determine only after parties are permitted to lead evidence on this issue. If the petitioner is able to establish before the appropriate Court of law that the respondents on account of their acts of omission or commission have indeed caused any monetary loss to the petitioner, then what loss has been caused, also has to be demonstrated by leading cogent evidence. All this cannot be done before this Court in exercise of its jurisdiction under Article 226 of the Constitution of India.

6. Therefore, we close these proceedings, but with liberty that if the petitioner is so advised, it may approach the appropriate Court of law for the redressal of his grievances as have been mentioned in the petition. As prayed for by learned Senior Counsel for the petitioner, we observe that the time spent by the petitioner

while pursuing this petition, be taken into consideration by the Authorities concerned in case the issue of limitation arises. Pending miscellaneous application(s), if any also stand disposed of accordingly.

(Ajay Mohan Goel)
Judge

(Yogesh Jaswal)
Judge

October 31, 2026
(Rishi)