(2017) 01 MP CK 0152

In the Madhya Pradesh High Court

Case No : 3808 of 2007

Deepak Tiwari & Anr. APPELLANT

Vs

State of Madhya Pradesh. RESPONDENT

Date of Decision : 19-01-2017

Acts Referred:

Citation : (2017) 01 MP CK 0152

Hon'ble Judges : Vivek Agarwal

Bench : Division Bench

Advocate : S. K. Jain, Harish Dixit

Judgement

1. The petitioner has filed this writ petition being aggrieved by the order dated 15.03.2007 passed by the President, Board of Revenue Madhya Pradesh, Gwalior, wherein the appeal filed by the petitioner against the order of Commissioner Excise Madhya Pradesh Gwalior has been rejected on the ground that the Commissioner Excise has, after giving an opportunity of hearing, imposed penalty of Rs.50,000/- on the petitioner for not maintaining the minimum stock as was required to be maintained by the petitioner under the provisions of the M.P. Excise Rules, 1995.

2. Learned counsel for the petitioner has submitted that the case of the petitioner is squarely covered by the order dated 01.07.2013 passed in WP No.10997/2013, by the Principal Bench of this Court at Jabalpur, in which this Court had refused to interfere in exercise of its writ jurisdiction in a writ petition filed by the State Government. The said writ petition filed by the State was against the order of the Board of Revenue wherein the Board of Revenue had set aside the order of the Excise Commissioner on the ground that the Excise Commissioner had not given any notice to the concerning licensee which is a mandatory requirement.

3. In the present case, the matter is slightly different inasmuch as it has come in the order of the President, Board of Revenue that the appellant was granted

opportunity of hearing and in fact the Excise Commissioner had not passed the impugned order of imposing penalty without giving opportunity of hearing to the petitioner. In fact, it has come in the order dated 04.11.2006 passed by the Excise Commissioner that notices were issued to the licensee on 26.11.2005 and thereafter reply was filed by the licensee on 21.12.2005 and after considering the said reply, the impugned order imposing penalty of Rs.50,000/- on the licensee was passed. Thus, in view of the fact that the petitioner was granted opportunity of hearing, and upon recording a finding that there was breach of conditions of the licence, the impugned order has been passed, which has been maintained by the President, Board of Revenue, there is no dispute regarding the factual position that the petitioner was afforded opportunity of hearing before passing of the impugned order. Thus, the impugned order does not call for any interference inasmuch as the facts of the case are different from the one as enumerated in WP No.10997/2013 wherein no opportunity of hearing was afforded to the licensee before passing the order of penalty. Thus, the petition fails and is hereby dismissed.