

(2003) 05 PAT CK 0005
In the Patna High Court
Case No : C.W.J.C. No. 11259 of 2002

Hesperia Commodities Pvt. Ltd.

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 02-05-2003

Acts Referred:

Citation : (2003) 4 PLJR 341

Hon'ble Judges : R.S. Garg, J; Nagendra Rai, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. Heard learned Counsel for the parties.
2. The Petitioner-a company registered under the Companies Act, has filed the present writ application to allow it to participate in the negotiation and grant of exclusive privilege for manufacture and wholesale supply of country liquor for Patna Zone for the period from 1st April, 2000 (sic-- 2002?) to 31st March, 2005.
3. On 16.1.2002, a tender notice inviting applications was issued in terms of the Bihar Excise Act for grant of exclusive privilege for manufacture and wholesale supply of country liquor from 1st April, 2002 to 31st March, 2005. The last date for submitting the tender was 27.2.2002 up to 3.30 P.M. The Petitioner submitted his tender within time along with relevant documents as required to be filed in terms of the tender notice.
4. According to the Respondents, the Petitioner has not fulfilled two of the conditions mentioned in the tender notice, as a result of which its tender was not accepted. One of the defects was that in the certificate granted by the Registrar of the Companies regarding non-liquidation of the company, signature was not at the proper place and the other defect was with regard to the financial capacity of the Petitioner showing availability of the fund of Rs. 35 lacs by the Bank. The Petitioner showed financial capacity to the extent of Rs. 10 lacs only.

5. Admitted fact is that up-till-now no settlement has been made in terms of the tender notice and recently this Court has directed the authorities to take steps for grant of exclusive privilege for manufacture and wholesale supply of country liquor for the aforesaid period.

6. So far as defect No. 1 is concerned, the moment the Petitioner was informed about the said fact, he rectified the same by filing a fresh certificate regarding non-liquidation of the company. There was no laches on the part of the Petitioner on the other hand, it was a mistake on the part of the office of the Registrar of the Companies. So far as the other defect i.e. the financial capacity of the Petitioner is concerned, no doubt the Petitioner had filed the financial capacity to the extent of Rs. 10 lacs only but as the settlement has not been made till the date and steps are being taken to settle the same, and that the Petitioner is ready to deposit Rs. 35 lacs, which includes Rs. 10 lacs, which he had already deposited, to show his financial capacity, we are of the view that one chance should be given to it to participate in the settlement process in pursuance of the tender filed by him.

7. Accordingly, if the Petitioner deposits Rs. 35 lacs in the nationalised Bank by 19.5.2003 and files necessary documents in support of the deposit and further gives an undertaking that it will not withdraw the aforesaid amount and spend the same only in the execution of the project, then the authorities will consider the case of the Petitioner, along with other eligible tenderers, for grant of exclusive privilege for manufacture and wholesale supply of country liquor for the period aforementioned.

8. If the said amount is not deposited by the aforesaid period then the case of the Petitioner shall not be considered.

9. This writ application is, accordingly, allowed with the aforesaid observation.