

(2021) 06 PAT CK 0073

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 10556 Of 2020

Om Prakash Sahu @ Om Prakash Sah

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 21-06-2021

Acts Referred:

Citation : (2021) 06 PAT CK 0073

Hon'ble Judges : Sanjay Karol, CJ;S. Kumar, J

Bench : Division Bench

Advocate : Satyabir Bharti, Vikash Kumar

Final Decision : Disposed Of

Judgement

Petitioner has prayed for the following reliefs: -

â??(i) Issuance of writ of certiorari, quashing the order dated 25.8.2015, as contained in memo no.1757, passed by the Superintendent of Excise,

West Champaran, Bettiah by which upon direction issued by the Deputy Commissioner of Excise, Tirhut-cum-Saran Division, Muzaffarpur, the

security deposit furnished by the petitioner at the time of settlement which was adjusted against the outstanding dues of license fee for the period

2014-15 against settlement of Group No.34 Retail Liquor Shops in the district of West Champaran, Bettiah, has been forfeited and liability created

upon the petitioner for the said dues of license fee to be recovered through Certificate proceedings;

(ii) Issuance of appropriate writ (s), order(s) & direction(s), to hold and declare that the security deposit being an amount deposited assuring due

compensation in case of default of payment, the security deposit furnished by the petitioner against settlement of Group no. 34 retail liquor shop in the

District of West Champaran for the year 2014-15, is liable to be adjusted against the outstanding dues of license fee;

(iii) directing the respondents to adjust the security deposit of Rs. 7,93,150.00 along with accrued interest, against the outstanding dues of license fee

of Group no. 34 retail liquor shop settled with the petitioner for the year 2014-15;

(iv) Quash the consequential Certificate proceedings initiated vide Certificate case no. 17/2016-17 pending before the Certificate Officer, West

Champaran, Bettiah for recovery of the amount in question;

(v) To pass such other writ(s), order(s), direction(s) as your Lordships may deem fit and proper in the facts and circumstances of the case. Shri

Satyabir Bharti, learned counsel for the petitioner, states that petitioner's case is squarely covered vide judgment dated 26th July, 2017 passed in

CWJC No. 18598 of 2015, titled as Upendra Kumar vs. The State of Bihar & Ors., and its analogous cases, and that the instant petition be disposed

of in terms of order dated 21st September, 2017 passed by a co-ordinate Bench of this Court in CWJC No. 11893 of 2017, titled as Pramod Singh vs.

The State of Bihar & Ors., and its analogous cases.

He further states that the authority be directed to consider the petitioner's case expeditiously.

On the other hand, Shri Vikash Kumar, learned Standing Counsel No. 11, states that he has no objection with the matter being remanded to the

appropriate authority for consideration of the petitioner's case on its own merit in accordance with law. Whether the petitioner's case would

be covered or not is left open for the authority to consider.

As such, as jointly prayed for, we dispose of the present petition directing the appropriate authority, under the provisions of the Bihar Prohibition and

Excise Act, 2016, to consider and decide the petitioner's case in terms of judgment dated 26th July, 2017 passed in case of Upendra Kumar (supra) as

also order dated 21st September, 2017 passed in case of Pramod Singh (supra).

We clarify that all issues of facts and law are left open.

Also, we have not gone into the issue as to whether the petitioner's case is similarly situated as that of petitioners in Upendra Kumar (supra) and

Pramod Singh (supra).

We only hope and expect that the authority to consider and decide the

petitioner's case expeditiously and preferably within a period of four months from the date of placing a copy of this order along with a written request to be made by the petitioner.

The petition stands disposed of in the aforesaid terms. Interlocutory Application(s), if any, also stands disposed of.