(2020) 09 PAT CK 0212

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 1615 Of 2020

Prince Kumar APPELLANT

Vs

State Of Bihar And Ors RESPONDENT

Date of Decision : 16-09-2020

Acts Referred:

Citation : (2020) 09 PAT CK 0212

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

Bench : Division Bench

Advocate : Satyabir Bharti, Vikash Kumar

Final Decision : Allowed

Judgement

Heard learned counsel for petitioner and learned counsel for the respondents.

Petitioner has prayed for following reliefs:-

â??(i) For issuance of writ of certiorari, quashing the order dated 27.12.2016, as contained in Memo no. 1067 (Annexure-3) passed by the

Superintendent of Excise , Kaimur (Bhabhua) by which an order has been passed directing recovery of a sum of Rs. 1,37,710.00/- from the petitioner

against movement fees on account of short lifting of the Annual Minimum Guarantee Quota for the financial year 2015-2016 and accordingly it has

been directed to deposit the aforesaid sum of money, failing which action in accordance with law will be initiated against the petitioner.

(ii) To quash the entire certificate case no. 09/EX of 2018-2019, initiated against the petitioner for recovery of Rs. 1,37,710.00/-against movement fees

on account of short lifting of the Annual Minimum Guarantee Quota for the financial year 2015-2016 (Annexure-5 series).

(iii) To hold and declare that the impugned demand of movement fees against the unlifted quota of liquor is wholly illegal, arbitrary and without any

authority in law.

(iv) 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.â??

Briefly stated that facts of the case is that Collector, Kaimur issued a sale notification in Form 27 inviting applications for settlement through lottery of

retail liquor shop for the financial year 2015-16 in the District of Kaimur. Annual license fee is a fixed fee which was to be determined based on

minimum guarantee quota of the liquor shop including the excise duty payable on the liquor. Rule 15 provides payment of 1/12th of annual license fee

as security money and equal amount is to be deposited as advance licence fee. The licensee is bound to take minimum of 1/12th quantity of liquor in

each month as fixed for a year. If the licensee does not lift the full quantity prescribed for the month the remaining quantity for last month can be

carry forward to the next month and failure to lift shall result in forfeiture of the unlifted quota for that month. It is mandatory for the license holder to

sell full quantity liquors in terms of sale notification.

Petitioner was given license to sell liquor. The quota for movement of liquor was fixed for each of the licence holders. Petitioner had taken less

quantity of liquor against the fixed quota to him.

The necessary permit for supply of liquor is issued to the retail licensee from the wholesale license premises if the movement fees has been levied and

realized by the issuing district. Movement fees at the specified rates is levied and realized if the pass/permit is obtained by the retail licensee for

procurement of liquor from the wholesaler is obtained.

Petitioner was directed to deposit movement fees on the unlifted quantity of liquor and aggrieved by said order petitioner has filed this writ petition.

The issue raised in this writ petition is no more res intigra as same has been decided by a Division Bench of this Court in a batch of cases C.W.J.C.

No. 18863 of 2015 (Md. Daud Khan Vs. The State of Bihar and anothers) and analogous matter and paragraph 34 of which reads as follows:

Thus, in our considered view, the impugned demand, raised by the Excise Superintendent, for payment of movement fee against unlifted quota of

annual minimum guarantee quota of the petitioners, is without any authority of law and wholly without jurisdiction and the impugned demands are, accordingly, set aside.

For the reasons as stated above the writ petition is allowed and order dated 27.12.2016 as contained in Annexure-3 is quashed.