

(2020) 12 PAT CK 0179

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 16143 Of 2017

Sanjay Kumar

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 17-12-2020

Acts Referred:

Citation : (2020) 12 PAT CK 0179

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 relief(s):

i. Directing the respondents to refund a sum of Rs. 1,74,638.00 and RS.28,387.00 which was unlawfully recovered from the petitioner under threat

and coercion, as against differential amount of movement on account of lifting of foreign liquor as against beer for Patna Nagar Nigam Retail Foreign

Liquor Shop Nos. 8 and 20 settled with the petitioner for the financial year 2012-13, the levy and recovery of which has already been quashed and set

aside by judgment and order, dated 12.12.2013 passed in C.W.J.C. No. 22054/ 22207/ 22222/ 22250 and 22251 of 2013 holding that the demand of

movement fee on unlifted quantity of beer is wholly without authority in law;

ii. Directing the respondents to pay interest on the aforesaid amount refundable to the petitioner @ 18% per annum from the date of its deposit to the

date of its actual refund;iii. For issuance of any other writ(s), order(s), or direction(s) as may be deemed fit and proper by this Honâ??ble Court.â??

Before us, it is not in dispute that the petitionerâ??s case would fall within the

ambit of the directions issued by this Court on 12.12.2013 in C.W.J.C.

No. 22054 of 2013, titled as Chandrashekhar Vs. The State of Bihar & Ors. And analogous cases.

As such, as prayed for, we dispose of the present petition with the following directions:

The petitioner shall file a representation before Respondent No. 5, namely The Assistant Commissioner of Excise, Patna, within a period of four weeks;

If the petitioner files a representation within the time indicated above, the Respondent No. 5 is directed to consider and decide the representation in the light of judgment in the case of Chandrashekhar (supra) within a period of two months thereafter by a speaking order assigning reasons.

The proceedings, during the time of current Pandemic- Covid-19 shall be conducted through digital mode, unless the parties otherwise mutually agree to meet in person i.e. physical mode.

Needless to add, while considering such representation, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties.

Liberty reserved to the petitioner to approach the Court, if the need so arises subsequently on the same and subsequent cause of action.

We have not expressed any opinion on merits. The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, also stands disposed of.