(2014) 05 P&H CK 0411

In the Punjab And Haryana At Chandigarh

Case No : CWP No. 3832 of 2014

Subash APPELLANT

Vs

The State of Haryana and Others RESPONDENT

Date of Decision : 30-05-2014

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2014) 05 P&H CK 0411

Hon'ble Judges : Jaspal Singh, J;Ajay Kumar Mittal, J

Bench : Division Bench

Advocate : Sunil Chadha, Sr. Advocate and Mr. Vivek Singla, Advocate for the Appellant; Himanshu Munjal, AAG, Haryana and Ms. Tanisha Peshawaria, DAG, Haryana, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

Ajay Kumar Mittal, J.—Challenge in this petition filed under Articles 226/227 of the Constitution of India has been laid to the order dated 20.2.2014, Annexure P.6 passed by respondent No. 2 whereby the prayer of the petitioner for adjustment of the amount of security towards the licence fee has been rejected.

2. A few facts relevant for the decision of the controversy involved, as narrated in the petition, may be noticed. The State of Hayana issued Excise policy for the years 2013-14 and 2014-15, Annexure P.1. The petitioner applied for and was allotted licences, Annexure P.2 for retail outlet of country liquor (L-14A) bearing Group Nos. 4 and 22 in the District of Hisar commencing from 1.4.2013 to 31.3.2015. One Society namely Arrive Safe Society of Chandigarh filed a Public Interest Litigation in this court bearing CWP No. 25777 of 2012 challenging allotment of liquor vend sites along the National Highways being in direct contravention of the provisions of the Control of National Highway (Lands and Traffic) Act, 2002. During the pendency of the said writ petition, the State of Haryana issued for the first time Excise policy for two years i.e. 2013-14 and 2014-15. Prior to the issuance of the said policy, the petitioner in the PIL moved

interim application for staying the process of issuance of the policy. Vide order dated 17.12.2013, Annexure P.3 passed by this Court in the above mentioned writ petition, it was made clear that the Excise Policy for two years issued by the State of Haryana would only be applicable for one financial year i.e. from 1.4.2013 to 31.3.2014. In terms of the policy Annexure P1, the petitioner being licencee had deposited security deposit of 21% of the licence fee for the year 2013-14 and the said deposit was to be adjusted in the last two installments for the year 2014-15. The licencee had to get the licence renewed for the year 2014-15 i.e. the second year of the current policy between 15.2.2014 to 28.2.2014 and in case of failure, his security deposit of 21% was liable to be forfeited and the vends were to be reallotted. The petitioner was required to pay the installments of the licence fee by 20th of every month and in case of failure, interest at the rate of 1.5% per month was to be levied against the defaulter. The petitioner approached the respondents and submitted representation dated 2.1.2014, Annexure P.4 praying that the security deposit of 21% of the licence fee be adjusted in the two installments due in the months of February and March 2014. Thereafter, the petitioner filed CWP No. 934 of 2014 which was disposed of vide order dated 20.1.2014, Annexure P.5 with a direction to respondent No. 2 to take decision on the representation by passing a speaking order. Vide impugned order dated 20.2.2014, Annexure P.6, respondent No. 2 rejected the representation. Hence the present writ petition.

3. Learned counsel for the petitioner submitted that in the present writ petition, the petitioner was allotted Group Nos. 4 and 22 in the District of Hisar which was commencing from 1.4.2013 to 31.3.2015. It was stated that in so far as Group No. 4 is concerned, a separate writ petition bearing CWP No. 5574 of 2014 has been filed challenging the further action of the respondents whereby the petitioner has been directed to continue with the liquor vends. Learned counsel further submits that in so far as the present writ petition is concerned, the same is restricted to the dispute with regard to Group No. 22 only. It was urged on behalf of the petitioner that in respect of Group No. 22, the licence fee and security deposit have been deposited by the petitioner prior to 31.3.2014 and, therefore, the petitioner is not liable to pay any interest thereon.

4. The aforesaid position is disputed by the learned counsel for the respondents.

5. After hearing learned counsel for the parties, we dispose of the writ petition with the observations that it shall be open for the respondents to recover the amount of licence fee, security deposit and interest, if any, in terms of the policy from the petitioner after issuing notice and affording an opportunity of hearing to him in accordance with law by passing a speaking order. It is however, clarified that since there was no contumacious conduct on the part of the petitioner regarding deposit, no penal action shall be taken against him.