

Genuine Bottlers Vs. the State of Jharkhand and ors.

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Court : Jharkhand

Decided On : Oct-07-2005

Reported in : [2006(1)JCR9(Jhr)]

Judge : M.Y. Eqbal, J.

Appeal No. : W.P. (C) No. 5627 of 2005

Appellant : Genuine Bottlers

Respondent : The State of Jharkhand and ors.

Advocate for Def. : A.K. Sinha, A.G.

Advocate for Pet/Ap. : V.V. Giri and; Prashant Kumar, Advs.

Judgement :

ORDER

M.Y. Eqbal, J.

1. In this writ petition petitioner seeks direction upon the respondents to immediately and forthwith issue the letter of confirmation to the Excise Commissioner, Uttar Pradesh and further not to extend terms of the previous contract, which was expired on 31st March, 2005.

2. It appears that pursuant to the tender notice dated 21.7.2005 issued by the Excise Department for grant of exclusive privilege for sale of whole-sale supply of country liquor various tenderers participated and finally the tender of the petitioner was accepted. The said decision of the respondents was challenged by the unsuccessful bidders including Lakshmi Narayan Ram Swaroop and Co. by filing W.P. (C) No. 2893/05 and other cases. In that case in course of argument it was brought to the notice of this Court that the unsuccessful tenderers whose earlier tender already expired are unnecessarily filing cases and getting stay orders so that even after the expiry of their tender they should continue supplying the country liquor. Therefore, the said writ petition was dismissed on 19.7.2005 by passing a reasoned order . It would be useful to refer para 7 of the said judgment :

7. On the other hand, learned Advocate General firstly submitted that the writ petitions have been filed with mala fide intention at the instance of previous contractors for the wholesale supply of country liquor in sachet, because they are the real beneficiaries of the stay order passed by this Court, since the previous grant already expired on 31st March, 2005. Learned counsel submitted that there is no illegality or irregularity in the decision making process adopted by the respondents and on scrutiny it was found that only six persons fulfilled the terms and conditions of the tender notice. Accordingly, they were invited for the negotiation of the wholesale dealership of the country liquor to be supplied to retail vendors. Learned counsel further submitted that no illegality has been committed in inviting the successful tenderers for giving them additional zone since no one turned up for the said zone.

3. Mr. V.V. Giri, learned counsel appearing for the petitioner submitted that although a Bank draft for deposit of the import duty is ready but the Excise Superintendent, Garhwa is not passing the challan as a result of which the excise duty has not been deposited. On the other hand, learned Advocate General submitted that unless the duty is deposited by the petitioner the confirmation cannot be sent by the Excise Commissioner, Jharkhand to the Excise Commissioner, Uttar Pradesh. The Excise Commissioner, who is present in Court, stated that the challan shall be passed by tomorrow and the period for lifting shall be extended reasonably by the Excise Commissioner. This writ petition is

therefore, disposed of with the aforesaid direction.

4. I have heard learned counsel appearing for the Intervener-M/s. Nakcottamka Mercantile Pvt. Ltd. in the intervention petition. It is stated by the intervener that it has come to learn the State Government has cancelled the tender for whole-sale supply of country liquor and directed to take necessary steps for issuance of fresh tender. It is stated that consequence upon the cancellation of tender the State exchequer will be deprived of the State revenue if the supply of liquor is not continued by the licensee whose licence was expired on 31st March, 2005. The learned Advocate General and also the Excise Commissioner refuted the said statement made by the intervener and stated that the tender allotted to the present petitioner is still valid. Admittedly the intervener even after expiry of the license has succeeded on one pretext or other to continue supply of liquor till date. The only purpose and intention of the intervener for filing intervention petition is to get an order to continue supply. Intervention petition is, therefore, frivolous and mala fide and is therefore, dismissed with cost of Rs. 50,000/- which shall be deposited in the High Court Legal Services Committee within ten days. The Excise Commissioner is directed not to allow the licensees to continue supply of liquor whose licence already expired on 31st March beyond 10th October, 2005 even if there is loss of State revenue. This Court shall not allow the authority of the Excise Department to permit those licensees to supply liquor on extraneous consideration. I have passed the order in presence of the Excise Commissioner and the Advocate General.

5. Let a copy of this order be handed to the learned Advocate General.

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