

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4650 of 2013

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Banshi Lal Singh S/O Late Jalim Singh C/O Veena Auto Corporation,
Resident Of Village- Kama Bigha, Sahpur Bye Pass Chouk, Nh-2, G.T.
Road, Aurangabad, P.S- Town, P.O- Kunda, District- Aurangabad - 824101
(Bihar)

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Commissioner of Excise, Govt. Of Bihar.
3. The District Magistrate, Aurangabad.
4. The Managing Director, Bihar State Beverages Corporation, Vidyut Bhawan-2, 1st Floor, Jawahar Lal Nehru Marg, Patna.
5. The General Manager, HRS Administration, Bihar State Beverages Corporation Ltd., Patna.
6. The Superintendent of Excise, Aurangabad.
7. The Depot Manager, IMFL, Aurangabad.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Arun Kumar
For the BSBC		Mr. Vikash Kumar
For the State		Mrs. Binita Singh


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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

3 30-08-2013 Heard Mr. Arun Kumar for the petitioner and Mr. Vikash Kumar for the Respondent- Bihar State Beverage Corporation (for short 'the Corporation').

The petitioner seeks a direction upon the Corporation to take over the remaining part/portion of the godown constructed by him for the use of the Corporation in the light of the advertisement (Annexure-2) published by the Corporation on 02.07.2009.


The Corporation required certain godown(s) for storage of



Indian made foreign liquor (IMFL) and CS/SCS. The total area required was 9500 sq. ft. for storage of these product(s)/articles. The petitioner became one of the applicants. The respondents permitted the petitioner to lease out godown(s). The petitioner consumed time in constructing the godown. Ultimately the godown having an area of 6130 sq. ft. was offered to the Corporation. Accordingly, an agreement was reached by and between the petitioner and the Corporation to occupy the said godown for the period of two years commencing from 15.05.2011. The agreement expired on 14.05.2013. In the meanwhile, the petitioner constructed another godown to the deficient area as per the requirement set out in the notice (Annexure-2). It is submitted that in constructing the godown of the deficient area the petitioner incurred financial liability. The prayer of the petitioner is that the Corporation be directed to take over the said godown which was subsequently constructed by the petitioner.

A counter affidavit has been filed on behalf of the respondents.

Learned counsel for the respondents submits that although as per the advertisement the applicant was required to make available godown(s) covering a total area of 9500 sq. ft.



However, the petitioner after due persuasion constructed godown and offered for lease covering only an area of 6130 sq. ft. The Corporation entered into a lease agreement with the petitioner in respect of the godown measuring an area of 6130 sq.ft for the period of 15.05.2011 to 14.05.2013. The petitioner has not raised any issue with regard to payment of the dues/rent for the said period in respect of the godown(s) leased out to the Respondent-Corporation for 02 years. While the lease was subsisting awkward scene between the employees of the Corporation and the land owner on frequent occasions was created inasmuch as an FIR was lodged against the petitioner. The scene created at the godown became a law and order problem. The matter was examined/considered by the District Magistrate of the district. Taking a stock of the situation at the spot the District Magistrate by a communication dated 16.11.2011 advised the Corporation to take steps for shifting of the godown(s) of the Corporation to some other place. In the setting of the aforesaid facts, the Corporation came out with another advertisement on 19.04.2012 (Annexure-9) inviting application(s) from the prospective bidder(s) for letting out the godown of bigger area. This time the respondent required a godown measuring an area of 10500 sq.ft. for storage of the said articles/products. The wife of the petitioner became one of

the bidders in response to the said notice inviting application (Annexure-9). The bid made by the wife of the petitioner was considered and rejected.

Learned counsel for the petitioner has submitted that the petitioner had constructed the deficient area of godown as per the notice inviting application dated 02.07.2009 (Annexure-2) inasmuch as some assurance(s) in this regard was/were given by the Corporation. This Court considering the aforesaid fact may direct the Corporation to take over the godown which was subsequently constructed by the petitioner.

It appears that on 02.07.2009 the Corporation had come out with an advertisement seeking offer for leasing out godown for the storage of IMFL/CS/SCS. Total Area of 6500 sq.ft for storage of IMFL and 300 for storage of CS/SCC was required. The petitioner in response thereto constructed godowns covering a total Area of 6130 sq.ft. only. The Corporation entered into an agreement in respect of the godown measuring an area of 6130 sq.ft the period thereof has already lapsed. No issue in this regard has been raised by the petitioner. It is contended by the petitioner that the godown measuring an area about 3000 sq.ft. constructed subsequently should also be taken over by the Corporation. The Corporation has set out the reasons for not

acceding to the said claim of the petitioner.

Considering the facts and circumstance of the case this Court is not persuaded to grant any relief invoking its extraordinary and discretionary writ jurisdiction.

The application is dismissed.

Dismissal of this application shall, however, not preclude the petitioner from approaching the Corporation for consideration of his claim in accordance with law.

(Kishore Kumar Mandal, J)

HR/-