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PATNA HIGH COURT

Case No: Civil Writ Jurisdiction Case No. 6415 of 2016

Shree Baidyanath Ayurved Bhawan Pvt. Ltd.	APPELLANT
Vs	
State of Bihar	RESPONDENT

Date of Decision: Oct. 27, 2016

Acts Referred:

- Bihar and Orissa Excise Act, 1915 - Section 2(12a)

Citation: (2017) 1 BBCJ 66 : (2016) 4 PLJR 915

Hon'ble Judges: I.A. Ansari, CJ. and Mr. Samarendra Pratap Singh, J.

Bench: Division Bench

Advocate: Mr. Satyabir Bharti, Advocate, for the Petitioner; Mr. Lalit Kishore, PAAG, for the Respondent

Final Decision: Allowed

Judgement

Mr. Samarendra Pratap Singh, J. - The facts and the reliefs sought for in both the writ applications are common and as such they have been heard together and are being disposed of by this common order.

2. The petitioners seek quashing of Clause 3 of the Circular, dated 17.3.2016, bearing memo No.1507 (Annexure-4, Page-52 of CWJC No.6404 of 2016 and Annexure-6, Page-137 of CWJC No.6415 of 2016), whereby the Excise Commissioner has informed all the Collectors-cum-District Magistrates in the State of Bihar that henceforth the licenses granted, under Medicinal and Toilet Preparations (Excise Duties) Act, 1955 (hereinafter referred to as "the MNTP Act"), shall not be renewed nor new license would be issued, and thus, prohibited manufacture and sale of Allopathic, Ayurvedic, Unani, Homeopathic or other indigenous system of medicines, containing alcohol, in the State of Bihar. The petitioners have further prayed for consequential directions to the Excise Commissioner, Bihar, to renew the license held in Form L-1 (license to manufacture

Medicinal & Toilet Preparations containing alcohol, opium, Indian Hemp and other Narcotic drugs and Narcotics under bond for payment of duties).

3. Before we consider the rival submissions of the parties, it would be necessary to notice the facts of the case in brief.

4. The petitioner of C.W.J.C. No.6415 of 2016 (Shree Baidyanath Ayurved Bhawan Pvt. Ltd.) is engaged in manufacture of Ayurvedic medicines, adopting indigenous process and practice of Medicine, as mentioned in the Authoritative Books of the Ayurveda System of Medicine, for past many decades. Some of these medicines contain alcohol/opium. The petitioner holds five L-1 licenses, under MNTP Act, for manufacture of (i) Medicines containing spirit (spirituous medicines), (ii) license to manufacture medicines containing Opium, (iii) license to manufacture medicines containing Indian Hemp, (iv) license to manufacture medicines containing alcohol (Mrit Sanjeevani Sura) and (v) license to manufacture medicines containing alcohol (Asha Varishta).

5. The petitioner of C.W.J.C. No.6404 of 2016 (Samrat Chemicals Industries) holds only one license in Form L-1 for manufacture of several Ayurvedic medicines, which contain self generating alcohol.

6. Both the petitioners have obtained licenses, in Form 24D under the Drugs and Cosmetics Act, 1940 (hereafter referred to as "the Drugs Act"), which have been renewed for the period beginning from 01.01.2016 to 31.12.2020. They also had obtained licenses, in Form L-1, under the MNTP Act, which expired on 31.3.2016. They applied for renewal of license in Form L-1 within the prescribed time. The petitioner (Shree Baidyanath Ayurved Bhawan Pvt. Ltd.), of C.W.J.C. No.6415 of 2015, additionally applied for renewal of licence in ND 1 as well. However, their licenses were not renewed in view of direction as contained in Clause 3 of the Circular, bearing memo No.1507, dated 17.3.2016, issued by Registration, Excise and Prohibition Department, Government of Bihar, Patna, whereby the Collectors of all the districts of the State have been directed that licenses issued under the MNTP Act would not be renewed.

7. The contention of the petitioners is that MNTP Act is enacted by the Parliament, under Entry 84 List 1 of 7th Schedule of the Constitution of India, and, as such, in exercise of powers conferred under Entry 8 List II of 7th Schedule of the Constitution of India, the State Government cannot prohibit manufacture and sale of medicinal preparations, containing alcohol, inasmuch as they cannot be equated to alcoholic beverages simplicitor, which are, as such, injurious to human health. Even Article 47 of the Constitution of India, which mandates that the State shall endeavor to bring about prohibition of the consumption of intoxicating drinks and drugs, which are injurious to health, exempts medicinal preparations containing alcohol.

8. The Drugs and Cosmetics Act, 1940, has been enacted to regulate import, manufacture as well as distribution and sale of drugs and cosmetics. Section 3(a) defines

"Ayurvedic or Unani drug" to include all medicines, intended for diagnosis, treatment, mitigation or prevention of diseases, manufactured exclusively in accordance with the formula prescribed in authoritative books consisting of Ayurvedic and Unani system of medicines, specified in the first schedule of the Act. According to Section 33 EED of Drugs and Cosmetics Act, only the Central Government is empowered to prohibit manufacture of any Ayurvedic and other medicines through a notification in official gazette.

9. The petitioners contend that the Drugs and Cosmetics Act, 1940, has been enacted, under Entry 19 in List III of 7th Schedule of the Constitution of India, and as the filed of such manufacture of any drugs, including medicines containing alcohol, has been occupied by the Central Government, the State Legislature has no power to enact any law repugnant to the aforesaid enactment.

10. The State Excise Act has been enacted with reference to Entry 6 and 8 of List II of Schedule-7 of the Constitution and, under the State Act, only such medicines as containing alcohol, which are capable of being consumed as ordinary alcoholic beverages, can be regulated under the Act.

11. The word "intoxicants" and "intoxicating liquor" occurring in the Act, have been held by the Supreme Court, in **Synthetics and Chemicals Ltd. v. State of U.P., (1990)1 SCC 109**, to mean liquor fit for human consumption.

12. According to the petitioners, it would, thus, follow that manufacturers of Ayurvedic medicines, containing alcohol, are not even required to hold any license and even the retail and wholesale license is confined to a particular class of Ayurvedic preparations, which can be consumed as an ordinary alcoholic beverages, e.g., Mrit Sanjeevani Sura.

13. The contention on behalf of the State that it exercise an absolute powers in matters relating to Rectified Spirit/Industrial Alcohol, under Entry 8 in List II of Schedule-7 of the Constitution and, manufacture of Rectified Spirit has been prohibited in the State, the petitioners cannot procure rectified spirit, an essential raw material, for manufacture of many Ayurvedic medicines, containing alcohol, is fallacious, for the reason that the State do not possess any exclusive privilege over the Industrial Alcohol/Rectified Spirit, under Entry 8 in List II of Schedule-7 of the Constitution. The word "intoxicating liquor" within the meaning of Entry 8 List II, has been held to be only alcoholic liquor fit for human consumption and does not include the industrial alcohol/rectified spirit inasmuch as it is unfit for human consumption because of alcohol contents.

14. On these premises, Mr. Satyabir Bharti, learned counsel for the petitioners, submits that a combined reading of the provisions of the Bihar Excise Act, 1915, MNTP Act, 1955, and the Drugs and Cosmetics Act, 1940, would reveal that (i) manufacture and sale of Ayurvedic and Unani medicines is regulated by Drugs and Cosmetics Act; (ii) Levy and collection of duties of Excise on Medicinal and Toilet preparations is controlled by the

MNTP Act; (iii) Sale and consumption of medicines, containing alcohol, is regulated by the Bihar Excise Act, 1915. As such, according to the petitioners, the power conferred, under the Bihar Excise Act, 1915 is only to the extent of framing rules and regulations providing for forms of licence and regulation of retail sale of such medicines, but such power of regulation does not confer upon the State Government, or its authorities, to completely prohibit the manufacture and sale of Ayurvedic, Homeopathic and other form of indigenous medicines containing alcohol. A Constitution Bench of Supreme Court has also categorically held that the State cannot prohibit trade and business in medicinal and toilet preparations, containing alcohol, and, under the garb of its power of regulation, it cannot prohibit its manufacture and sale.

15. Mr. Lalit Kishore, learned Principal Additional Advocate General, appearing for the State, has justified the impugned actions, being in conformity with the new Excise Police, 2015, as notified, vide notification No.3893, dated 21.12.2015, the purpose whereof is to bring complete prohibitions in the State of Bihar in public interest and mortality, because of harmful and dangerous effect of liquor. In terms of new Excise Policy, the government, in the first phase, vide notification, dated 31.03.2016, had banned manufacture/production, sale and consumption of country liquor, spiced country liquor w.e.f. 01.04.2016. Subsequently, the State, vide notification, dated 05.04.2016, has prohibited/banned wholesale or, retail sale and consumption, of foreign liquor by any licence holder or any person in the whole State of Bihar with immediate effect. Photocopies of the notifications, dated 31.03.2016 and 05.04.2016, are annexed and marked as Annexure-A and A/1 to the counter affidavit.

16. Mr. Lalit Kishore, learned PAAG-1, also contends that for successful implementation of the new Excise Policy, it was decided, in public interest, not to renew the licenses issued under the MNTP Act for the financial year 2016-17 and, as such, necessary guidelines were issued by the Department, vide Clause 3 of memo No.1507, dated 17.03.2016 issued by the Excise Commissioner, and directing all the Collectors-cum-District Magistrates of the State.

17. The decision with the regard to the non-renewal of licenses in Form L-1 or in Form ND-1, under the MNTP Act, has been taken, in terms of new Excise Policy, so that alcohol may not be misused in the name of medicines/drugs. Various Ayurvedic medicinal preparations, containing alcohol, such as, Mrit Sanjeevani Sura, Brihad Derachasaw and Mrig Madasaw, Sudha Ras are in between 35vv to 52 vv strength. Such medicinal preparations would come within the definition of "intoxicant" and there is very possibility that the medicinal preparations, containing alcohol, may replace liquor and the possibility of using the same as intoxicants cannot be ruled out. As such, the petitioners cannot be allowed to manufacture or sale of medicinal preparations, containing alcohol, in the name of medicines/drugs, in public interest, in order to protect the health and welfare of its citizen.

18. The respondents next submit that the Drugs Act, 1940, was enacted to regulate import, manufacture, distribution and sale of Drugs and Cosmetics including indigenous medicines. The Parliament enacted the MNTP Act, 1955, to provide for levy and collection of Excise duties on medicinal and toilet preparations containing alcohol. The Bihar Excise Act, 1915, is relatable to Entry 8 (as also to Entry 6) of List II of Schedule-7 of the Constitution of India. The said Act was amended by the Bihar Amending Act No. 6 of 1985, by redefining the word "intoxicant" in Section 2(12a) of the Excise Act, and including therein "medicinal and toilet preparations", containing alcohol, as defined under the MNTP Act, 1955. The amendment sought to regulate use (including consumption) and possession of medicinal preparations, containing alcohol, as alcoholic beverages. A challenge to the validity and constitutionality of Section 2(12a)(iv) of the Bihar Excise Act, 1915 (as amended by Bihar Act 6 of 1985), redefining intoxicants in Section 2(12a) of the Bihar Excise Act, 1915, was made before this Court successfully. On appeal by the State of Bihar, the Supreme Court, in **Civil Appeal No.1543 of 1997 (State of Bihar v. Shree Baidyanath Ayurved Bhawan Pvt. Ltd.)**, observed that there was no conflict between the provisions of the Excise Act, as amended, and the two Central enactments, e.g., the Drugs Act and the MNTP Act, as the amended Act, takes over from where the 1955 Act or 1940 Act ends and, thus, there was no conflict between the provisions of the three Acts.

19. Learned counsel for the respondents further submits that one of the raw materials for manufacture of Ayurvedic medicines is Rectified Spirit, which is referable to Entry 27 of List II and Entry 8 of List II of 7th Schedule of the Constitution of India being a "liquor", and the State has control over its production, supply and sale, etc., including its use for the purpose of manufacturing medicines. In support of his submission, learned counsel refers to a decision of the Supreme Court, in **B. Viswanathiah & Co. and ors v. The State of Karnataka (1991) 3 SCC 358**. He submits that in the aforesaid case, the Supreme Court, while examining the scope of Entry 52 of List I to the Schedule-7 of the Constitution of India, held that when the said Entry talks of control of industry, it does not mean all aspects of the industry in question. An industry comprises of three important aspects viz (i) raw materials, (ii) the process of manufacture or production and (iii) the distribution of the products of the industry. Legislation with regard to raw materials, would be permissible under Entry 27 of List II, notwithstanding a declaration of the industry, under Entry 52, to be one within the purview of parliamentary legislation. Drawing analogy, learned counsel argues that the raw materials for preparation of liquor, too, would be relatable to List II of 7th Schedule.

20. From the pleadings and submissions, the primal case of the State is that the medicines or toilet preparations, containing alcohol, would come within the definition of "intoxicating liquor" in view of re-defining of the word "intoxicant", in Section 2(12a) of the Excise Act, by Bihar Amending Act 6 of 1985, which include medicinal and toilet preparations, containing alcohol, as defined, under the MNTP Act, 1955. As such, even medicinal and toilet preparations, containing alcohol, is amenable to legislation under

Entry 8 (as also under Entry 6) of the 7th Schedule of the Constitution of India. Submission was also made to the effect that there is every possibility of replacing liquor and its use with the medicines containing light proportions of alcohol, as an intoxicants, and will be injurious to human health, thus, the State Government has adopted a holistic approach to fight the scourge of alcoholism and to achieve its avowed objective of total prohibition of alchohol. The State,s in support of its submission, has referred to some provisions of the Excise Act as well as judgments in case of (i) **State of Bihar v. Shree Baidyanath Ayurved Bhawan Private Ltd., A.I.R. 2005 SC 932**; (ii) **Southern Pharmaceuticals & Chemicals, Trichur v. State of Kerala, A.I.R. 1981 SC 1863**; (iii) **B. Viswanathiah & Co. v. The State of Karnataka, (1991) 3 SCC 358**; (iv) Synthetics and Chemicals Ltd. v. State of U.P. (supra), (v) **Vam Organic Chemicals Ltd. v. State of U.P., (2004)1 SCC 225** and (vi) **Ch. Tika Ramji v. State of U.P., A.I.R. 1956 SC 676**.

21. Before, we consider the rival submissions of the parties, it is relevant to notice that Schedule-7 of the Constitution has, earmarked the fields according to which the Parliament and the State would have power to legislate and enact laws. Whereas, the Parliament has exclusive right of legislation in respect of entries made in List I, the State has right of legislation in respect of entries made in List II. List III is the concurrent list wherein, both the Parliament and the State, have right to legislate, subject to primacy of Parliament and other provisions of the Constitution. The respective entries in Schedule-7 of the Constitution, which would be relevant in the context of the case, are quoted hereinbelow:

"Entry 52, List-1: Industries, the control of which by Union is declared by Parliament by law to be expedient in the public interest.

Entry 84, List I: Duties of Excise on tobacco and other goods manufactured or produced in India except-

(a) alcoholic liquors for human consumption.

(b) opium, Indian hemp and other narcotic drugs and narcotics, but including medicinal and toilet preparations containing alcohol or any substance included in sub-paragraph (b) of this entry.

Entry 6, List II: Public health and sanitation; hospitals and dispensaries.

Entry 8, List II: Intoxicating liquors, that is to say, the production, manufacture, possession, transport, purchase and sale of intoxicating liquors.

Entry 27, List II: Production, supply and distribution of goods subject to the provisions of entry 33 of List III.

Entry 19, List III: Drugs and poisons, subject to the provisions of Entry 59 of List I with respect to opium".

22. It would appear, from bare perusal of Entry 84 in List I, that in terms thereof, the Union has exclusive right of legislation with respect to medicinal and toilet preparations, containing alcohol, or any substance included in sub-paragraph (b) of this entry. The State legislature has been conferred power with respect to intoxicating liquor, which is mentioned in Entry 8, List II.

23. Learned counsel for the State has put much emphasis on the amended definition of liquor, brought by the Bihar Amending Act 6 of 1985, relating to Bihar Excise Act, 1915, which included medicinal preparations as defined under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955. Section 2(14) and the amended provisions 2(12a) of the Bihar Excise Act, 1915, are quoted hereinbelow:

2(14) "Liquor" includes all liquids consisting of or containing alcohol, such as spirits of wine, spirit, wine, fermented tari, pachwal and beer, and also unfermented tari, and also any other substance which the State Government may, by notification, declare to be liquor for the purposes of this Act.

2(12a) "intoxicant" means-

(i) any liquor, or

(ii) any substance from which liquor may be distilled and which is declared by the State Government by notification in the Official Gazette to be intoxicant for the purpose of this Act, or

(iii) intoxicating drug, or

(iv) medicinal preparation as defined under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955".

24. In view of the amended definition of Section 2(12a), learned counsel for the State submits that the medicinal preparations, as defined under the MNTP Act, would now come under the cover of liquor in respect of which the State has exclusive right of legislation.

25. In our view, the submissions of the State is misconceived.

26. A similar issue was also substantially in consideration before the Division Bench, in which one of us (Hon"ble the Chief Justice) was a member, in the case of M/s Samrat Laboratories v. The State of Bihar, C.W.J.C. No.5795 of 2016 & its analogous cases decided on 30.9.2016. In paragraph 14 of the judgment, this Court, rejecting similar stand of State, upon considering discussing the amendment, observed that the Excise Act is a pre-constitution Statute and the extended meaning would only be for the purpose of the Act and only to the extent to which State would have a constitutional jurisdiction and not beyond. Paragraphs 14 and 15 of the judgment is quoted hereinbelow:

"14. Our first answer to this submission would be that the every definition of intoxicant clause clearly states that the definition is for the purposes of the Act, which, as noted above, is a pre-constitutional Act. By artificially extending the meaning of a commodity, to what it is not, the State cannot usurp the legislative competence, which it, now, lacks after the Constitution of India was adopted and enforced. The extended meaning would only be for the purposes of the Act and only to the extent to which the State would have the constitutional jurisdiction and not beyond that.

15. Thus, there is no gainsaying that the Act defines intoxicant to include something, which is unfit for human consumption and not an intoxicant, the State can assume jurisdiction or legislative power treating non-intoxicant as intoxicant. If the State lacks legislative competence in respect of industrial alcohol, which includes denatured spirit, then, by this extended definition or artificial definition of intoxicant, the State cannot assume legislative competence."

27. It would, thus, follow that the medicinal and toilet preparations, containing alcohol, would not come within the ambit of Entry 6 or Entry 8 of List II, but would fall under Entry 84 List I. Further-more, the MNTP Act has been enacted by the Parliament under Entry 84 List I of the 7th Schedule of the Constitution, and the Medicinal and toilet preparations, containing alcohol, be it Ayurvedic, Allopathic, Unani, Homeopathic or other forms of indigenous medicines, cannot be equated with ordinary alcoholic beverage inasmuch as they are consumed only for medicinal purposes.

28. Article 47 of the Constitution of India, which mandates that the State shall have endeavour to bring about prohibition of the consumption of intoxicating drinks and drugs, which are injurious to health, exempts medicinal preparations containing alcohol. Article 47 of the Constitution, is quoted hereinbelow:

"47. Duty of the State to raise the level of nutrition and the standard of living and to improve public health. - The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health".

29. Further-more the word "intoxicants" and "intoxicating liquor" are held, by the Supreme Court, in Synthetics and Chemicals Ltd. v. State of U.P., (supra), to mean liquor fit for human consumption.

30. As per Section 33-EED of the Drugs and Cosmetics Act, 1940, the Central Government has power to prohibit,t manufacture, sale or distribution of Ayurvedic, Siddha or Unani drugs likely to involve any risk to human beings or animals in public interest.

31. The arguments forwarded by the learned Principal Additional Advocate General that the State would have exclusive right of legislation in respect of Rectified Spirit and

Industrial Spirit, is too bereft of merit. The Division Bench after considering the judgment, in Synthetics and Chemicals Limited (supra); **Mohan Meakin Limited v. State of Himachal Pradesh & ors, (2009) 3 SCC 157**; State of U.P. v. Vam Organic Chemicals Limited (supra); and Ch. Tika Ramji (supra) has rejected the submission of that the State would have exclusive right of legislation in respect of Rectified Spirit and Industrial Spirit. In the case of M/s Samrat Laboratories, by judgment and order, dated 30.09.2016, passed in C.W.J.C. No.5795 of 2016 & its analogous cases. This Court, in paragraph 96 of the judgment held as follows:

"96. Thus, we have no difficulty in noting that the impugned notification, dated 04.02.2016, and the impugned, letter dated 17.03.2016, as referred to above, to the extent it is challenged, are wholly ultra vires the Constitution and ultra vires the powers of the State and its executive. They are, accordingly, declared null and void and are quashed as such. It is held that the impugned notification, dated 04.07.2016, and the impugned letter, dated 06.08.2016, are not enforceable. Consequently, the distilleries are not required to destroy the stocks of denatured spirit or what is produced by them and would be entitled to sell the same and the State cannot restrict the sale, except in accordance with law, as we have indicated above. Also the decision, not to grant and/or renew licenses for use, possession and sale of denatured spirit cannot be upheld. The State cannot, therefore, cancel, refuse to grant or renew any license for manufacture of industrial alcohol or denatured spirit. Consequently, the District Collectors would be obliged to renew/grant the same, as was being done in the past, and the authorities concerned are restrained from interfering with the said business, trade and industry".

32. Mr. Lalit Kishore, learned Principal Additional Advocate General, next submits that the main concern of the State is that there is all likelihood that if the prohibition, on medicinal preparations, containing alcohol, is not made, the same may replace the ordinary liquor and beverages, which have been totally prohibited in the State of Bihar under the New Excise Policy. The argument advanced by Mr. Lalit Kishore, in our view, cannot be a tenable ground to uphold the legality of impugned provisions, if the restriction imposed is, otherwise, void and unreasonable and lacks legislative and statutory sanction.

33. Relying upon the law laid down by the Hon"ble Supreme Court in **State of Bombay v. F.N. Balsara, AIR 1951 SC 318**, the Division Bench of this Court, in paragraph 55 of the judgment, passed in the case of M/s Samrat Laboratories v. State of Bihar in C.W.J.C. No.5795 of 2016 & its analogous cases, observed as follows:

"55. Now, we may refer to another argument of the learned Principal Additional Advocate General on behalf of the State. The argument is that to prevent possible misuse of denatured spirit, which is otherwise unfit for human consumption, in view of the prohibition policy of the Government, it became necessary to prohibit its possession or use in any form. The answer to this is to be found in the Constitution Bench judgment of the Supreme Court, in **State of Bombay v. F.N. Balsara, (AIR 1951 Supreme Court 318)**. In that case, pursuant to the Bombay Prohibition Act and in furtherance of the State

policy under Article 47 of the Constitution of India, restriction was imposed on, apart from alcoholic beverages, on all liquids consisting of or containing alcohol, which included toilet or medicinal preparations containing alcohol. The Bombay High Court held the restrictions imposed to be unreasonable and void, which decision was affirmed by the Supreme Court and the plea of possibility of abuse justifying prohibition was not accepted. It is for this reason that we are of the opinion and we have already held that the power of the State extends only to regulate such products to prevent possible abuse; but cannot, in any case, extend to prohibition as these products are unfit for human consumption and would neither fall within the object of Article 47 of the Constitution of India nor would it be res extra commercium".

34. The Supreme Court, in **Khoday Distilleries Ltd. v. State of Karnataka, (1995) 1 SCC 574**, has reiterated the same principles, in paragraph 60 of the judgment, the relevant part whereof is reproduced hereinbelow:

"60■■■■■. The State cannot prohibit trade or business in medicinal and toilet preparations containing liquor or alcohol. The State can, however, under Article 19(6) place reasonable restrictions on the right to trade or business of the same in the interests of general public.

(i) Likewise, the State cannot prohibit trade or business in industrial alcohol which is not used as a beverage but used legitimately for industrial purposes. The State, however, can place reasonable restrictions on the said trade or business in the interests of the general public under Article 19(6) of the Constitution.

(m) The restrictions placed on the trade or business in industrial alcohol or in medicinal and toilet preparations containing liquor or alcohol may also be for the purposes of preventing their abuse or diversion for use as or in beverage".

(Emphasis is added)

35. In view of the discussions made in the foregoing paragraphs, particularly, in the case of Khoday Distilleries Ltd. (supra) and Synthetics and Chemicals Limited (supra), there can be no escape from the conclusion that the State cannot prohibit manufacture, sale or distribution of medicinal and toilet preparations containing alcohol. The power of the State is restricted to Excise duty and at the maximum, such power may be exercised of place reasonable restrictions in the interest of general public, under Article 19(6) of the Constitution of India, subject to test laid down under Articles 14 and 19 of the Constitution of India.

36. In the result, these writ applications are allowed. The impugned order, so far as it relates to Clause 3 of the Circular dated 17.3.2016, as contained in memo No.1507, issued by the Excise Commissioner, Bihar, is quashed and the respondents are directed to renew the license in Form No.L-1 and in Form No. ND-1 of the petitioners forthwith.