

Ram Chandra Rai

Vs

State of Madhya Pradesh and Others

Civil Appeal No. 429 of 1970

(J. C. Shah, K. S. Hegde, A. N. Grover JJ)

12.08.1970

JUDGMENT

SHAH, J. -

1. The appellant who is a licensee of a liquor shop applied to the High Court of Madhya Pradesh for a writ of mandamus directing the excise department of the State not to recover licence fee for those days in respect of which liquor was not supplied to the appellant. The High Court summarily rejected the petition observing that the supply of liquor to the appellant was under a contract to the Government and "if the Government had committed a breach of the contract the remedy is elsewhere". It cannot without further investigation, be said that the rights and obligations arising under a licence issued under a statutory authority are purely contractual. In our judgment the High Court was in error in summarily rejecting the petition.

2. We set aside the order of the High Court and direct that the High Court do issue rule to the State and decide the case on the merits.

3. In this Court appellant has filed copies of certain correspondence relating to the payment of compensation in respect of those days on which liquor was not supplied. It appears from a perusal of that correspondence that the State had not adopted the attitude that they will insist upon recovering or retaining the licence fee notwithstanding that they had not supplied the liquor to the liquor shop-keepers.

The appeal is allowed. There will be no order as to costs.

</html