

GAHC040016382023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
(ITANAGAR BENCH)

Case No. : WP(C)/572/2023

Smti Iter Lollen
W/o Shri Jummar Lollen, R/o Kombo-I village, P.O/P.S Aalo, Dist West Siang,
Arunachal pradesh. Ph. no. 8132916082

VERSUS

The State of AP and 2 Others
represented by the Chief Secretary, Govt. of Arunachal Pradesh, Itanagar.

2:The Deputy Commissioner
West Siang District Aalo
Govt. of Arunachal Pradesh.

3:Shri Sangey Phutso
Age: 0
Occupation :
S/o Sri karsang Lama
R/o Irik Shop
New Market
Aalo
P.O/P.S Aalo
Dist. West Siang
Arunachal Pradesh

Advocate for the Petitioner : L Kurdu

Advocate for the Respondent : GA (AP)

**BEFORE
HONBLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 05.12.2023

Heard Mr. O. Pada, the learned counsel for the petitioner and Mr. I. Riram, the learned Additional senior Government Advocate for respondents No.1 and 2.

2. By filing this writ petition under Article 226 of the Constitution of India, the petitioner has prayed for setting aside and quashing of the order dated 06.11.2023, by virtue of which the license of the petitioner to operate his hotel business in the name of M/s Hotel Lollen Palace & Restro was cancelled by invoking the provision of Section 18 of the Immoral Traffic (Prevention) Act, 1956, the trade license of the petitioner in respect of M/s Hotel Lollen Palace & Restro. The petitioner has also prayed for directing the respondent authorities for revocation of the said cancellation order dated 06.11.2023.

3. The learned counsel for the petitioner has submitted that cancellation of the trade license was made by the Deputy Commissioner, West Siang District (respondent No.2) on two fold

allegation. Firstly, for using the premises for illegal and immoral purposes and secondly, that the manager of said hotel was arrested in connection with Aalo P.S. Case No.47/2023 under Section 22(b) of the NDPS Act. In the said context, by referring to the Annexure-C, which is an agreement of lease of Hotel Lollen Palace & Restro which is dated 01.09.2020, the learned counsel for the petitioner has submitted that the said premises was leased out to the respondent No.3 tenant. Therefore, the petitioner was not responsible for whatever has happened in the tenanted premises. It is submitted that the manager of the said hotel was arrested in the NDPS case and therefore, the action taken by the respondent authority, respondent No.2 in cancelling the trade license of the petitioner is unwarranted.

4. Having regard to the nature of grievances raised by the petitioner and in light of allegation made by the petitioner that hotel property was leased out to the respondent No.3, the Court is of considered opinion that unless said lease is terminated in accordance with law and petitioner lawfully becomes entitled to resume possession and charge of the said hotel, the petitioner would have no cause of action for agitating against the order of cancellation of the hotel license of the petitioner. It is the further considered opinion of the Court that the property in question is vested upon respondent

No.3 to run a hotel business, therefore, during the currency of his lease, the petitioner would not have a right to maintain this writ petition for revocation of the cancellation of the said trade license.

5. Be that as it may, in the event, the petitioner becomes lawfully entitled to possession of the property in reference, it will be open to the petitioner to take such appropriate measure, as he may be so advised to obtain a fresh trade license of the said hotel and/ or to get it renewed.

6. Accordingly, this writ petition fails and is dismissed at the motion stage without issuance of notice on the respondents.

JUDGE

Comparing Assistant