

GAHC010150062021



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

Case No. : PIL/62/2021

ALL RABHA STUDENTS UNION AND 2 ORS.
BAIDA ANCHALIK COMMITTEE,
HEAD OFFICE RONGSAI, PO JURIGAON, 783120, DIST GOALPARA, RHAC,
ASSAM, REPRESENTED BY ITS PRESIDENT SRI JAGADISH RABHA, SON
OF KHAGEN RABHA, AGED 34 YEARS

2: ALL RABHA WOMEN COUNCIL
DODAN ANCHOLIK COMMITTEE
HEAD OFFICE RONGSAI
PO BAIDA
783120 DIST GOALPARA
R.H.A.C ASSAM
REPRESENTED BY ITS PRESIDENT MS. LUBITRA RABHA
W/O SWAMI PARAM HANSE RABHA
AGED 38 YEARS

3: SHRI SHRI RISHI ASHRITA DODAN THAN COMMITTEE

DODAN HASU
BAIDA
783120
DIST GOALPARA
R.H.A.C ASSAM
REPRESENTED BY ITS PRESIDENT SRI DIBAKAR RABHA
SON OF LALIT CHANDRA RABHA
AGE 43 YEAR

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM,
DISPUR , GUWAHATI 781005, ASSAM

2:THE SECRETARY TO THE GOVT. OF ASSAM

EXCISE DEPARTMENT
DISPUR GUWAHATI 781005
ASSAM

3:THE DEPUTY COMMISSIONER

GOALPARA
ASSAM 783101

4:THE SUPERINTENDENT OF EXCISE
GOALPARA
ASSAM 783101

5:SMTI SUMI PATHAK
D/O LATE BASANTA PATHAK
VILLAGE BARBARI
PO TIHU
781371
DIST NALBARI
ASSA

Advocate for the Petitioner : MR. S R RABHA

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HONOURABLE MR. JUSTICE ROBIN PHUKAN

JUDGMENT

06.02.2023

Heard Mr. P. Bhardwaj, learned counsel for the petitioners; Ms. M. Bhattacharjee, learned Standing Counsel for the respondent nos. 1 & 3; and Mr. K.P. Pathak, learned Standing Counsel for the respondent nos. 2 & 4. None appears for the respondent no. 5.

2. The petitioner, All Rabha Students Union has instituted this PIL petition being aggrieved by the issuance of IMFL "ON" license Shop to the respondent no. 5, Smt. Sumi Pathak. The grounds for assailing the IMFL "ON" license rented to the respondent no. 5 is that the shop is located near the border with the State of Meghalaya and Rule 293 of the

Assam Excise Rules, 2016 requires that before the liquor shop can be licensed near to the inter-state border there has to be a sanction by the State Government. Issues are also raised that under Rule 289 [2] of the Assam Excise Rules, 2016 the liquor shop has to be beyond the distance of 100 metres from the Gaon Panchayat and 150 metres from any place of public worship or educational institution or hospital.

3. The allegation raised is that the liquor shop of the respondent no. 5 is located within a distance of 150 metres from an existing temple premises. The respondent authority in the Excise Department has filed an affidavit taking a categorical stand that the location of the concerned temple is beyond 150 metres from the liquor shop of the respondent no. 5 and the said information had not been disputed by the petitioners in any manner other than making an oral objection to it.

4. As regards the other allegation that there was no sanction order by the State Government authority as required under Rule 293 of the Assam Excise Rules, 2016, Mr. K.P. Pathak, learned Standing Counsel for the Excise Department had referred to the communication no. EX.181/2020/75 dated 19.10.2020 of the Joint Secretary to the Government of Assam in the Excise Department wherein, it is provided that the Governor of Assam was pleased to accord sanction for the IMFL "ON" license in favor of the respondent no. 5 under Rule 116 of the Assam Excise Rules, 2016. In paragraph no. 5 of the affidavit of the Excise Department it is also stated that along with the application of the petitioners all relevant and necessary documents were taken into consideration including the minimum distance required for operating a liquor shop from the inter-state boundary under Rule 293 of the Assam Excise Rules, 2016.

5. As the stand of the respondent authorities in the Excise Department based upon their affidavit and the materials produced has not been controverted by the petitioner, we are of the view that the two issues raised by the petitioner are unacceptable without any further material being placed by the petitioner.

6. Accordingly, PIL stands closed. If the petitioner is of the view that the aforesaid

information provided by the Excise Department is incorrect, liberty remains to approach again with appropriate material.

JUDGE

JUDGE

Comparing Assistant