

GAHC010199112022



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

Case No. : WP(C)/6416/2022

RANJIT KALITA
S/O SRI HARI KALITA R/O KAMARKUCHI MOUZA PANBARI P.S. KHETRI
DIST. KAMRUP (M) ASSAM

VERSUS

THE STATE OF ASSAM AND ORS.
REP. BY THE COMMISSIONER OF EXCISE GOVT. OF ASSAM EXCISE
DEPTT. HOUSEFED COMPLEX DISPUR GUWAHATI-6

2:THE DEPUTY COMMISSIONER
O/O THE DEPUTY COMMISSIONER KAMRUP (M) HENGRABARI
GUWAHATI PIN-781036

3:THE SUPERINTENDENT OF EXCISE
O/O THE DEPUTY COMMISSIONER KAMRUP (M) EXCISE BRANCH
HENGRABARI GUWAHATI PIN-78103

Advocate for the Petitioner : MR. N BARMAN

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

02.02.2023

Heard Shri S.K. Goswami, learned counsel for the petitioner. Also heard Shri R.R. Gogoi, learned Standing Counsel, Excise Department appearing for the respondent nos. 1 & 3 and Ms. M. Barman, learned State Counsel has appeared

for the respondent no. 2.

When this matter was taken up on 23.01.2023, this Court after recording the facts of the case in brief had also made certain observations which are extracted herein below:

“23-01-2023

The grievance of the petitioner is with regard to running of his liquor (ON Shop). The shop was shifted from his earlier location with due permission. However, after shifting the same has not been allowed to be opened on various reasons including the accessibility from the National Highway.

Shri S. K. Goswami, the learned counsel for the petitioner has submitted that the proper access to the shop from the National Highway is about 350 mtrs. and there is no embargo as such. However, the authority alleges that there are two other ways by which the shop can be assessed and both the ways are less than 100 mtrs. So far as one way is concerned, the parties are in agreement that the same has been blocked by a concrete wall, the second way is blocked in a temporary manner by bamboo structure.

The learned counsel for the petitioner has proposed that even the second way can be blocked by him by raising a permanent concrete wall.

Shri S. K. Goswami, the learned counsel for the petitioner has also submitted that there are documents to show that the area in question falls under the Gauhati Municipal Corporation and in any case the embargo of National Highway may not be applicable.

Shri R. R. Gogoi, the learned counsel for the Excise Department is accordingly directed to obtain instructions as to whether the aforesaid proposal is acceptable to the Department.

List on **27.01.2023.**”

Today in the hearing, Shri Goswami, the learned counsel for the petitioner has submitted that even the second access has been blocked by a concrete wall. The aforesaid submission has been endorsed by Shri Gogoi, the learned Standing Counsel and has also submitted that the authorities in the Excise Department has inspected and found that a wall has indeed been constructed.

In that view of the matter, this Court is of the opinion that the embargo with regard to the distance will not be applicable for the petitioner in question and therefore, the restrictions imposed upon him for opening the shop are liable to be lifted.

Accordingly, it is directed that the petitioner be allowed to run his IMFL "ON" shop in accordance with law.

It is needless to state that the business would be run strictly in accordance with the Rules governing the field and the authorities would be at liberty to take appropriate action for violation of any condition.

Writ petition accordingly stands disposed of.

JUDGE

Comparing Assistant