

GAHC010259262022



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

Case No. : WP(C)/3/2023

SAMIKHA KALITA
W/O- SRI ANANDA KALITA, R/O- AMGURI TOWN, P.O. AND P.S. AMGURI,
DIST.- SIVASAGAR, ASSAM, PIN- 785680

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, DEPTT. OF
EXCISE, DISPUR, GHY-06

2:THE DY. COMMISSIONER
SIVASAGAR DISTRICT HEADQUARTER
P.S. SIVASAGAR SADAR
P.O. SIVASAGAR
ASSAM
PIN- 785640

3:THE SUPERINTENDENT OF EXCISE
SIVASAGAR DISTRICT
P.S. SIVASAGAR SADAR
P.O. SIVASAGAR
ASSAM

4:THE INSPECTOR OF EXCISE
AMGURI
P.S. AMGURI
P.O. AMGURI DIST.- SIVASAGAR
ASSAM

5:SRI SHANTANU DUTTA
S/O- LT. BIREN DUTTA
R/O- VILL- AMGURI TOWN

WARD NO.-10
P.S. AND P.O. AMGURI
DIST.- SIVASAGAR
ASSAM
PIN- 78568

Advocate for the Petitioner : MS M DAS

Advocate for the Respondent : SC, EXCISE DEPTT.

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

ORDER

Date : 04-01-2023

Heard Ms. M. Das, learned counsel for the petitioner as well as Mr. R.R. Gogoi, learned standing counsel for the Excise department appearing for respondent nos.1, 3 and 4 and Ms. M. Barman, learned Govt. Advocate for the respondent no.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 sanction letter dated 20.02.2021 issued by the Additional Secretary, Govt. of Assam, Excise Department issuing IMFL 'On' License in respect of respondent no.5 and the petitioner is also seeking a direction from the respondent authorities for disposal of the representation dated 30.11.2022 by conducting a fresh magisterial inquiry with regard to the IMFL 'On' License.

3. On a query of the Court, the learned counsel for the petitioner has submitted that on 30.11.2022 as many as 12 students from Amguri Girls High School had submitted a representation before the Deputy Commissioner,

Sivasagar, placing their grievance against the issuance of IMFL 'On' License to the respondent no.5 based on apprehension that the intoxicated people after consuming liquor may not know how to behave with minor girls.

4. It is noticed in the said representation none of the students who had submitted their representation had stated their respective house is situated within the non-permissible distance, where the residents would have the right to object in terms of Rule 295 (iii) of the Assam Excise Rules, 2016 under which right is given to the owners and residents of neighborhood located within a radius of 75 metres of the premises involved would have a right to object.

5. It is further noticed that against the IMFL 'On' License issued to respondent no.5, on previous occasion two other persons had approached this Court by filing WP(C) 4440/2020 and this Court by order dated 06.11.2020 as an interim measure directed the status-quo in respect of IMFL 'On' License of the respondent no.5. However, as those petitioners were residing beyond the distance limit provided under Rule 295(iii), the authorities were permitted to process the IMFL 'On' License by virtue of judgment and order dated 29.01.2021 passed in WP(C) 4440/2020. Thereafter two other petitioners approached the Court against the said IMFL 'On' License by filing WP(C) 6339/2021 and as the petitioners were residing outside the periphery of 75 metres, the said writ petition was also dismissed.

6. In the representation referred by the 12 students none of them had stated that they are residing within the 75 metres of the premises where IMFL 'On' License has been granted.

7. The petitioner who states that she is the mother of one of the complaining students has also not made any statement on oath in this writ petition that she is residing within 75 metres distance from the IMFL 'On' License shop.

8. Under such circumstances, the Court does not find that the petitioner has any *locus standi* to challenge the IMFL 'On' License of the respondent no.5.

9. Accordingly, this Court does not find any merit in the writ petition and the same is dismissed at the motion stage without issuance of any notice on the respondents.

JUDGE

Comparing Assistant