

GAHC010067702024



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

Case No. : WP(C)/1853/2024

NILA KANTA DAFLARI
SON OF LATE SONESWAR DAFLARI,
RESIDENT OF VILLAGE NO. 1 GHEYARI,
P.O.- JIADHAL CHARIALI,
P.S. AND DISTRICT- DHEMAJI, ASSAM.
PINCODE- 787057.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM,
EXCISE DEPARTMENT, DISPUR, GUWAHATI-6.

2:COMMISSIONER EXCISE
ASSAM
HOUSEFED COMPLEX
DISPUR
GUWAHATI-6.

3:THE DISTRICT COMMISSIONER
DHEMAJI
DISTRICT DHEMAJI
ASSAM
PIN- 787057.

4:THE ADDITIONAL DISTRICT COMMISSIONER
DHEMAJI
DISTRICT- DHEMAJI
ASSAM
PIN- 787057.

5:THE SUPERINTENDENT OF EXCISE
DHEMAJI
DISTRICT- DHEMAJI
ASSAM
PIN- 787057.

6:THE CIRCLE OFFICER (A)
DHEMAJI REVENUE CIRCLE
DHEMAJI
DISTRICT- DHEMAJI

ASSAM
PIN- 787057

Advocate for the Petitioner : MR N N UPADHYAYA

Advocate for the Respondent : SC, EXCISE DEPTT.

B E F O R E
HON'BLE MR. JUSTICE NELSON SAILO
ORDER

15.05.2024

Heard Mr. R Dhar, learned counsel for the petitioner and Mr. R R Gogoi, learned counsel for the respondent Nos. 1, 2 & 5 and Ms. U Das, learned Addl. Senior Advocate appears for respondent Nos. 3, 4 & 6. Having regard to the case projected by the petitioner and importantly, the pendency of the representation submitted by the petitioner before the respondent No. 2, the writ petition is taken up for disposal at this stage.

[2.] The learned counsel for the petitioner submits that the impugned Notice dated 19.02.2024 issued by the Superintendant of Excise, Dhemaaji to the

petitioner to shift his IMFL "Off" shop located at Jiachal Chariali, Dhemaji to a new site with a distance of at least 220 meters from end point of the National Highway should be set aside. The learned counsel submits that the distance of 220 meters from the National Highway to the IMFL shop is not a requirement in terms of the order dated 29.01.2024 passed by the Supreme Court in Review Petition (Civil) No. 1107/2023 arising out of Civil Appeal No. 1788/2023. When the matter was listed on 03.04.2024, Court had directed the learned counsel appearing for the Excise Department to obtain instructions in the matter and in the meantime, till the next listing of the case, the operation of the impugned notice dated 19.02.2024 issued by the Superintendant of Excise, Dhemaji was put on hold. Today, when the matter is listed, it is submitted at the bar that the representation submitted by the petitioner before the respondent No. 2 on 21.03.2024 has not been considered till date. The learned counsel for the petitioner has also drawn the attention of this Court to the order dated 05.03.2018 passed by the Addl. Commissioner of Excise, Assam, allowing as many as 119 license holders to operate their license shop from the original location subject to satisfaction of the concerned District Collector and in compliance of the existing Excise Rules. The learned counsel submits that the petitioner is also entitled to be allowed to operate his license since he is also similarly situated to the license holder as reflected in the order dated

05.03.2018.

[3.] Upon having regard to the grievance projected by the petitioner and the representation had submitted on 21.03.2024, the writ petition is disposed of with a direction to the respondent No. 2 to consider the representation of the petitioner in the light of the directions passed by the Hon'ble Apex Court in the case reflected as above, within a period of 6 (six) weeks from the date of receipt of a certified copy of this order. The petitioner should also submit a copy of the writ petition alongwith a certified copy for consideration by the respondent No. 2.

[4.] With the above observation and direction, the Writ Petition stands disposed of. It is further provided herein that till the respondent No. 2 considers and pass appropriate order against the representation submitted by the petitioner, the interim order passed vide order dated 03.04.2024 shall continue.

JUDGE

Comparing Assistant