

GAHC010085852024



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

Case No. : WP(C)/2317/2024

NIRANJAN KUMAR RAY
S/O SUSHIL KUMAR RAY
R/O WARD NO. 23, BAKHRAPARA
DIST. BONGAIGAON, ASSAM, PIN-783380

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, EXCISE DEPARTMENT, DISPUR, GUWAHATI-781006, ASSAM

2:THE COMMISSIONER OF EXCISE
ASSAM HOUSEFED COMPLEX
DISPUR GUWAHATI- 781006 ASSAM

3:THE DISTRICT COMMISSIONER CUM DISTRICT COLLECTOR
DHUBRI DIST. DHUBRI ASSAM

4:THE SUPERINTENDENT OF EXCISE
DHUBRI DIST. DHUBRI
ASSAM

5:RANJAN KUMAR SAHA
S/O NARAYAN CHANDRA SAHA
R/O VILL AND P.O. BASHBARI
P.S. KAJIGAON (BTAD)
DIST. KOKRAJHAR
ASSA

Advocate for the Petitioner : MR. B GOGOI

Advocate for the Respondent : SC, EXCISE DEPTT.

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

Date : 03.05.2024

1. Heard Mr. B. Gogoi, learned counsel for the petitioner, who submits that the approval orders dated 20.02.2024 and 07.03.2024 issued by the District Commissioner, Dhubri and Commissioner of Excise, Assam, which approved the shifting of the IMFL OFF shop of the respondent No. 5 from Choltogumma to a location next to the petitioner's IMFL Off shop, should be set aside.

2. The grievance of the petitioner is that the IMFL OFF shop of the respondent No. 5 is hardly 200 meters away from the petitioner's shop, which is in violation of Rule 288 of the Assam Excise Rules, 2016, which provides that the distance of 2 excise shops of similar description in rural area should be 1 K.M.

3. Mr. B. Gogoi, learned counsel for the petitioner submits that the petitioner had applied for IMFL Off Shop, pursuant to a tender process and the same was allotted to him on 12.02.2024. However, the State respondents have allowed the respondent No. 5 to transfer his wine shop next to the petitioner's shop on 07.03.2024. He submits that the same would seriously affect the business of the petitioner, who has incurred a huge expenditure for allotment of his licence shop.

4. Mr. B. Gogoi, learned counsel for the petitioner submits that the petitioner submitted a representation dated 18.03.2024 to the District Commissioner, Dhubri to relocate the shop of the respondent No. 5. However, the same has not

been considered till date. He submits that the writ petition can be disposed of, if the respondent No. 3 disposes of the petitioner's representation dated 18.03.2024, after giving an opportunity of hearing to both the petitioner and the respondent No. 5.

5. Mr. R. R. Gogoi, learned counsel for the respondent Nos. 1 to 4 and Mr. G. Bakalial, learned counsel for the respondent No. 3 submit that they have got no objection to the prayer made by the petitioner's counsel.

6. In view of the consent of the parties, this writ petition is disposed of, with a direction to the respondent No. 3 to take a decision on the petitioner's representation dated 18.03.2024, after giving an opportunity of hearing to the petitioner and the respondent No. 5, within a period of three weeks from the date of receipt of a certified copy of this order.

JUDGE

Comparing Assistant