

GAHC010136122017



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

Case No. : WP(C)/4582/2017

BHARAT KUMAR BORAH
S/O. HEMKANTA BORAH, PARIBHAMUPATH, MORANHAT, DIBRUGARH,
ASSAM. ALSO AT HOUSE NO. 12, BHETAPARA ROAD, MILANPUR, P.O.
BASISTHA, GUWAHATI.

VERSUS

THE STATE OF ASSAM and 37 ORS.
REP. BY THE COMM. and SECY. TO THE GOVT. OF ASSAM, EXCISE DEPTT.,
SACHIVALAYA, DISPUR, GUWAHATI-781006.

2:THE JT. SECRETARY TO THE GOVT. OF ASSAM
EXCISE DEPTT.
SACHIVALAYA
DISPUR
GUWAHATI-781006.

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

4:THE SUPERINTENDENT OF EXCISE
DIBRUGHAR
DIST. DIBRUGARH
ASSAM-786001.

5:THE DY. SUPERINTENDENT OF EXCISE
DIBRUGHAR
DIST. DIBRUGARH
ASSAM-786001.

6:THE INSPECTOR OF EXCISE
DIBRUGARH
DIST. DIBRUGARH
ASSAM-786001.

7:THE DY. COMMISSIONER
DIBRUGARH
DIST. DIBRUGARH
ASSAM-786001.

8:SMT. ANJU BORKOTOKY
WIFE OF SRI LAKHYADHAR KALITA.

9:SRI NEELAM PRATIM GOGOI
SON OF SRI JOY CHANDRA GOGOI.

10:SRI KANAK JYOTI DAS
SON OF LATE KUMUD RANJAN DAS.

11:SRI DILIP KUMAR GOGOI
SON OF LAMBHESWAR GOGOI.

12:SRI MONIDEEP BHATTACHARJEE
SON OF LATE MIHIR CHANDRA BHATTACHARJEE.

13:SRI ROHINI PRASAD GOGOI
SON OF LATE HARI PRASAD GOGOI.

14:SRI SANTANU PAUL CHOUDHURY
SON OF LATE PRAN BILASH PAUL CHAUDHURY.

15:MR. SAURAV AGARWAL
SON OF SRI BINOD AGARWAL.

16:MR. PAWAN SHARMA
SON OF LATE BABLOO SHARMA

17:MR. SAURABH AGARWAL
SON OF LATE PARAMESWAR AGARWAL.

18:SRI BHASKAR BARUAH
SON OF UPENDRA NATH BARUAH.

19:SRI RAJEN SHRESTHA
SON OF LATE LAXMAN BAHADUR SHRESTHA.

20:SMT. DOLLY PHUKAN
WIFE OF SRI KESHAB CHETRI.

21:MS. JENITA BARUAH
WIFE OF DR. GAURAV KUSRE.

22:MR. SURAJIT KUMAR GHOSH
SON OF LATE SUNIL KUMAR GHOSH.

23:MR ANGSHUMAN BHARADWAJ
SON OF DANU KAMAL SHARMA.

24:MR. PRANAB PHUKAN
SON OF PRAFULLA PHUKAN.

25:MR. SHOUMEN CHAKRABORTY
SON OF LATE SAMURENDRA CHAKRABORTY.

26:MR. MUKUT BORGOHAIN
SON OF LATE PADMANANDA BORGOHAIN.

27:MR. KONSANG BORGOHAIN
SON OF LATE TANKESWAR BORGOHAIN.

28:MR. UTPAL SUT
SON OF SRI GHANAKANTA SUT.

29:MR. INDRANIL BORA
SON OF SRI ROBIN BORA.

30:MR. NIRANJAN CH. SARKAR
SON OF LATE NIROD SARKAR.

31:SRI JYOTI KHAKHOLIA
SON OF SRI SATYANARAYAN SARKAR.

32:MR. SUDIP GHOSE
SON OF SRI AMITAVA GHOSH.

33:MR. MAKHAN HANDIQUE
SON OF LATE SIBA HANDIQUE.

34:SMT. SUBASANA MAHANTA
WIFE OF LATE NILIM CHOUDHURY.

35:MR. KUMUD MORAN
SON OF LATE PARESH CH. MORAN.

36:SMT. RUMA ACHARJEE
WIFE OF SRI PRADEEP ACHARJEE.

37:SMT. MONTI GOGOI HAZARIKA
WIFE OF SRI HIRANYA HAZARIKA

38:SMT. NILIMA SAIKIA
WIFE OF DR. BHOWANI PRASAD HAZARIKA. All ARE RESIDENT OF JBS
UDAYAAN
T. R. PHUKAN ROAD
WEST CHOWKIDINGHEE
DIBRUGARH
ASSAM-786001

Advocate for the Petitioner : MR.R SENSUA

Advocate for the Respondent : SC, EXCISE DEPTT.

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

Date : 24.06.2024

Heard Mr. S. Borthakur, learned counsel for the petitioner and Mr. R. R. Gogoi, learned counsel for the respondent Nos. 1 to 6. Mr. G. Bakalial, learned counsel appears for the respondent No. 7. None appears for the private respondents.

2. The petitioner is aggrieved by the impugned letter dated 26.07.2017 issued by the respondent No. 7, requiring the petitioner to shift his wine shop for the second time in succession, due to a complaint raised by the local public, particularly the residents of the said commercial and residential complex.

3. The petitioner's counsel submits that all procedures have been followed by the petitioner while shifting the wine shop from Moranhat to Dibrugarh. He submits that a local inquiry has also been conducted by the Excise Department,

prior to the petitioner setting up his shop in the new complex JSB Udayaan Complex, Dibrugarh.

4. Mr. R. R. Gogoi, learned counsel for the Excise Department submits that the matter may be heard and decided by the Deputy Commissioner, Dibrugarh, as he was the one, who had issued the letter dated 26.07.2017.

5. I have heard the learned counsels for the parties.

6. The letter dated 26.07.2017 states as follows:-

“To,

*Sri Bharat Kumar Borah,
Licensee, IMFL "OFF" Shop,
JSB, Udayan Complex, Dibrugarh.*

Sub: Shifting of IMFL "OFF" Shop due to Public complaints

*Ref: Complaint Petitions dated 12.06.2017, 17.06.2017, 24.06.2017,
27.06.2017 and 24.07.2017.*

With reference to the subject cited above, you are hereby requested to shift your existing shop premise from JSB UDAYAAN Complex, T.R.Phukan Road, Dibrugarh due to complaints raised by the local public particularly by the residents of the said commercial and residential complex at the earliest.

Hence, you are requested to find out an alternative suitable place

for shifting your licensed premises accordingly.”

7. In view of the consent of the parties, the District Collector is directed to take a decision as to whether the petitioner should shift his wine shop from JSB Udayaan Complex, TRP Road, Dibrugarh, by giving a speaking order, after giving an opportunity of hearing to all the parties concerned.

8. In view of the above, the impugned letter dated 26.07.2017 issued by the Deputy Commissioner, Dibrugarh is hereby set aside.

9. This writ petition is accordingly disposed of.

JUDGE

Comparing Assistant