

GAHC010152272024



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

Case No. : WP(C)/3835/2024

NILKAMAL SARMA
S/O- LATE JAMINI KANTA SARMA, R/O- HOUSE NO. 5, BYE LANE NO....,
(WEST), PUB SARANIA, GUWAHATI- 3, KAMRUP (METRO), ASSAM

VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY, EXCISE
DEPARTMENT, HOUSE FED COMPLEX, DISPUR, GUWAHATI-06, ASSAM

2:THE DISTRICT COMMISSIONER
HENGRABARI
KAMRUP (M)
GUWAHATI
ASSAM

3:THE SUPERINTENDENT OF EXCISE
HOUSE FED COMPLEX
KAMRUP (M)
GUWAHATI
ASSA

Advocate for the Petitioner : MR H DAS, MR. P GOGOI

Advocate for the Respondent : GA, ASSAM, SC, EXCISE DEPTT.

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

02.08.2024

Heard Mr. H. Das, learned counsel for the petitioner, who submits that the petitioner was given IMFL Off shop licence, vide licence dated 29.09.2000. The petitioner, upon receipt of the licence, started running the wine shop, namely, M/s Sudha Wine Shop situated at GNB Road, Chandmari, Guwahati. However, due to a civil dispute, i.e., Title Suit No. 397/2015, between the land lord and another person, the petitioner could not submit the tenancy agreement before the State respondents for renewal of the aforesaid licence. The above fact was duly brought to the notice of the State respondents by the petitioner, coupled with the fact that due to a major accident, the petitioner had to remain in bed for a long period. However, by ignoring the aforesaid facts, the State respondents issued the impugned order dated 24.08.2018, whereby the IMFL Off licence issued in favour of the petitioner was cancelled.

2. The petitioner's counsel submits that the petitioner has submitted a representation dated 21.05.2024 before the respondent No. 2, for restoring the IMFL licence and to allow him to shift the wine shop from Chandmari to Checha. He submits that the cancellation of the IMFL Off Licence should be set aside and the petitioner should be allowed to run his wine shop, by allowing transfer of the wine shop from Chandmari to Checha. The petitioner's counsel submits that the writ petition can be disposed of, if a direction is issued to the respondent No. 2, to take a decision on the petitioner's representation dated 21.05.2024.

3. Mr. R. R. Gogoi, learned counsel for the Excise Department and Mr. S. R. Baruah, learned counsel for the respondent No. 2 submit that the writ petition is hit by delay and laches, inasmuch as, the petitioner has not made any explanation as to why he had been sitting over the matter for the last six years.

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

5. As can be seen from the averments made in the writ petition, the petitioner's IMFL Off Licence was cancelled on 24.08.2018, in view of the fact that the petitioner could not produce up-to-date tenancy agreement, despite several communications/notices having been sent to him by the respondents. Further, the licence was under suspension from 28.05.2014. The impugned order dated 24.08.2018 has not been put to challenge, prior to filing of the writ petition, which has been done only on 29.07.2024. No explanation has been made by the petitioner in his writ petition, as to why it took the petitioner six years to challenge the cancellation of his IMFL licence. Further, a perusal of the impugned order dated 24.08.2018 shows that the petitioner's licence had been suspended from 28.05.2014. The said suspension order has not also been put to challenge at any time by the petitioner. The petitioner has also not submitted any representation to the respondents against the suspension and cancellation of his IMFL Off licence, prior to his representation dated 21.05.2024.

6. In view of the reasons stated above, this Court is of the view that the present writ petition is hit by delay and laches. Accordingly, this writ petition is not inclined to exercise its discretion for want of any bona-fide reasons for coming to this Court at this late stage. However, in view of the fact that the

petitioner has submitted a representation dated 21.05.2024 to the respondent No. 2, the respondent No. 2 may take a decision on the petitioner's representation, as per his discretion, within a reasonable time.

7. This writ petition is accordingly dismissed.

JUDGE

Comparing Assistant