

GAHC010199092023



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

Case No. : WP(C)/5254/2023

COUNTRY SPIRIT LIQUOR RETAIL TRADERS ASSOCIATION AND ANR
(A REGISTERED ASSOCIATION REGISTERED UNDER THE SOCIETY
REGISTRATION ACT), MARKET COMPLEX, DIBRUGARH MUNICIPALITY
BOARD, NALIAPOL BAZAR, ZONE-B, GABHARUPATHAR, P.O. AND DIST.
DIBRUGARH, ASSAM

2: SISHU RAM HIRA
THE SECRETARY OF COUNTRY SPIRIT LIQUOR RETAIL TRADERS
ASSOCIATION
S/O- LATE HEM KANTA HIRA
R/O- BANIPUR BYE LANE 5D
DIST. DIBRUGARH
ASSA

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, EXCISE DEPARTMENT, DISPUR, GUWAHATI-6.

2: THE COMMISSIONER OF EXCISE
ASSAM
HOUSEFED COMPLEX
DISPUR
GHY-6

Advocate for the Petitioner : MR. J LASKAR

Advocate for the Respondent : SC, EXCISE DEPTT.

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

13.02.2024

1. Heard Mr. J. Laskar, learned counsel for the petitioners and Mr. R.R. Gogoi, learned counsel for the respondents.
2. The petitioner No.1 is a registered Association whose members are having licence for retail sale of country liquor. The petitioner No. 2 is the Secretary of the petitioner No.1 Association. The petitioners have approached this Court by way of this writ petition, praying for a direction to be issued to the respondent authorities, directing them to grant IMFL off licences to the members of the petitioner No.1 Association in view of Rule 594(5) of the Assam Excise Rules, 2016, allowing all existing IMFL off licence holders to apply for country spirit retail licences.
3. The petitioners' counsel submits that as IMFL licence holders are allowed to apply for country liquor licence in terms of Rule 594(5) of the Assam Excise Rules, 2016, the petitioners should also be allowed to apply for IMFL licences.
4. The petitioners' counsel further submits that the petitioners have submitted applications before the respondent authorities, for grant of IMFL Off Licence and in pursuance to the same, the Joint Secretary to the Government of Assam, Excise Department had written a letter to the Commissioner of Excise, Assam vide letter No. Ex.220/2022/4 dated 30.05.2022, requesting him to submit a report on the feasibility of the demand raised by the petitioners.

5. The petitioners' counsel submits that no report has been made on the feasibility of the demands raised by the petitioners by the respondent No.2 till date. He accordingly submits that a direction should be issued to the respondent No.2 to submit a report on the feasibility of the demands raised by the petitioners in terms of the letter dated 30.05.2022.

6. Mr. R.R. Gogoi, learned counsel for the respondents submits that he has got no objection to the prayer made by the petitioners' counsel.

7. Rule 594(5) of the Assam Excise Rules, 2016 states as follows:-

"594. Grant of licenses:-

(5) All existing IMFL manufactories, IMFL wholesale warehouses and IMFL and Country spirit retail sale licensees (mahals) having a valid licence, shall be eligible to apply for Country Spirit manufactory, wholesale and retail licence respectively in terms of these Rules."

8. In view of the consent of the parties, the Commissioner of Excise, Assam (respondent No.2) is directed to submit a report on the feasibility of the demands raised by the petitioners for grant of IMFL off licences to country liquor licence holders. The feasibility report should be submitted by the respondent No.2 to the Joint Secretary to the Government of Assam, Excise Department, within a period of 1(one) month from the date of receipt of a certified copy of this order. The respondent No.2 should also send a copy of the report to the petitioners and take a decision on the petitioners' representation. The entire exercise should be concluded within a period of 2(two) months from the date of receipt of a certified copy of this order.

9. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant