

GAHC010202362023



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

Case No. : WP(C)/5290/2023

RATUL BAISHYA
S/O- SHRI RAMCHARAN BAISHYA, R/O- DOUKUCHI, P.O. GOPALTHAN,
DIST. NALBARI, ASSAM, PIN- 781334.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, EXCISE DEPARTMENT, DISPUR, GUWAHATI-6.

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

3:THE DEPUTY COMMISSIONER
NALBARI
ASSAM
PIN- 781335.

4:THE SUPERINTENDENT OF EXCISE
NALBARI
ASSAM
PIN- 781335.

5:THE INSPECTOR OF EXCISE
NALBARI
ASSAM
PIN- 781335

Advocate for the Petitioner : MR. N J KHATANIAR, P BORAH

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

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR
ORDER**

Date : 14.08.2024

Heard Mr. N. J. Khataniar, learned counsel for the petitioner. Also heard Mr. N. Goswami, learned Standing Counsel for the Excise Department representing all the respondents.

The petitioner, by way of instituting the present proceeding has raised a grievance with regard to the action on the part of the respondent authorities in not issuing to him IMFL 'On' License even after the application of the petitioner on processing was found to be eligible for being issued with such license.

The petitioner, herein, contends that he had submitted an application dated 27.05.2021, with all requisite documents and a fee of Rs. 1,00,000/- (Rupees One Lakh only), for being issued with IMFL 'On' License at the premises so identified therein. The petitioner submits that the requisite NOC from the various constituents, as required under the Act and Rules holding the field, were also brought on record. The enquiry as conducted in the matter by the Excise authorities had resulted in recommendations being made in favour of the petitioner for opening the said IMFL 'On' shop in the premises so identified. The said process, not having been taken to its logical conclusion and the license in question not having been so issued to the petitioner, he had instituted the present proceeding.

The Superintendant of Excise, Nalbari, had filed an affidavit in the matter

and therein, has stated that the application of the petitioner was not so taken to its logical conclusion, on account of the fact that the Secretary to the Government of Assam, Excise Department, had issued an communication dated 22.10.2021, wherein, it was directed that issue of IMFL 'On' Licenses in Nalbari district be stopped until further order(s).

The petitioner, in his rejoinder to the said affidavit filed by the Superintendent of Excise, Nalbari, had brought on record a contention to the effect that even after the issuance of the said communication dated 22.10.2021, the respondent authorities were issuing IMFL 'On' Licenses in the district, on pick and choose basis.

In view of the above position, Mr. N. Goswami, learned Standing counsel, Excise Department, on the last date of listing was required to receive instructions, specific to the contention as raised by the petitioner in his said rejoinder affidavit to the effect that licenses were being issued on pick and choose basis in the district of Nalbari, even after issuance of the said communication dated 22.10.2021.

Mr. Goswami, learned Standing Counsel has today placed on record the instructions so received by him in the matter, which reveals that the licenses so contended to have been issued by the petitioner in the rejoinder, were so issued much before the date of issuance of the said communication dated 22.10.2021.

Accordingly, the IMFL 'On' License in the district of Nalbari, being not issued on account of certain objections raised in the matter, this Court would not proceed to direct the respondent authorities, under such facts and circumstances, to issue an IMFL 'On' License to the petitioner, herein. However, considering the contention made in the affidavit so filed by the Superintendent of Excise, Nalbari, that as and when the said order dated 22.10.2021; is so

withdrawn, the application of the petitioner would be revived and the same would be considered in accordance with the Act and the Rules governing the field, it is provided that the respondent authorities shall consider the application of the petitioner for issuance of an IMFL 'On' License in Nalbari, in the identified premises, as and when the restriction imposed vide the communication dated 22.10.2021, is so lifted. However, such consideration would be so made, strictly, in accordance with the Act and Rules governing the field.

A copy of the communication dated 13.08.2024, furnished by Mr. N. Goswami, learned Standing Counsel is placed on record and marked as 'X' for identification.

With the above observations and directions, the writ petition stands disposed of.

JUDGE

Comparing Assistant