

**HIGH COURT OF TRIPURA
AGARTALA
WP(C) No. 602 of 2025**

Sri Jibananda Banik,

S/O Sri Swapan Kumar Banik, Power of Attorney Holder of Sri Goutam Debnath, Licensee of Happiest Hour, Having place of business at rooftop of UD Bhawan, Shakuntala Road, P.O: Agartala, P.S: West Agartala, Dist: West Tripura, PIN:799001.

.....**Petitioner**

Versus

1. The State of Tripura, Represented by its Secretary, Finance Department, Government Of Tripura, P.O: Secretariat, P.S: New Capital Complex, Dist: West Tripura, PIN: 799010.

2. The Commissioner of Excise, Government of Tripura, P.O: Agartala, P.S: West Agartala, Dist: West Tripura, PIN: 799001.

3. The Collector of Excise, West Tripura District, Government of Tripura P.O: Agartala, P.S: West Agartala, Dist: West Tripura, PIN: 799001.

4. The Superintendent of Excise, West Tripura District, Government of Tripura, P.O: Agartala, P.S: West Agartala, Dist: West Tripura. PIN: 799001.

.....**Respondents.**

5. Society for Management of UD Bhawan, Represented by it's Member Secretary, having office at UD Bhawan, Shakuntala Road, P.O: Agartala, P.S: West Agartala, Dist: West Tripura, PIN-799001.

6. The Secretary, Urban Development Department, Government of Tripura, UD Bhawan, Shakuntala Road, P.O: Agartala, P.S: West Agartala, Dist: West Tripura, PIN: 799001,

.....**Pro-forma Respondents.**

For the Petitioner(s)	:	Ms. Kiran Suri, Sr. Advocate. Mr. Arijit Bhaumik, Advocate. Ms. S. Sarkar, Advocate. Ms. I. Chakma, Advocate. Mr. P. Bhattacharjee, Advocate.
For the Respondent(s)	:	Mr. S. M Chakraborty, Adv. General. Mr. D. Sarma, Addl. G.A.
Date of hearing	:	31.10.2025.
Date of delivery of Judgment & Order	:	03 / 11 /2025.
Whether fit for reporting	:	YES.

BEFORE
HON'BLE JUSTICE DR. T. AMARNATH GOUD
JUDGMENT & ORDER

[1] Heard Ms. Kiran Suri, learned Senior counsel assisted by Mr. A. Bhaumik, learned counsel appearing for the petitioner. Also heard Mr. S. M Chakraborty, learned Advocate General assisted by Mr. D. Sarma, learned Addl. G.A. appearing for the respondents-State.

[2] This present Writ Petition has been filed under Article 226 of the Constitution of India, seeking the following reliefs :-

"i. Issue Notice upon the Respondents;

ii. Call for the records;

iii. Issue rule calling upon the Respondents to show cause as to why the impugned order dated 16.09.2025 passed by the Collector of Excise, West Tripura District whereby the Licence of the Petitioner has been cancelled shall not be set aside and quashed;

AND

Issue Rule calling upon the Respondents to show cause as to why a Writ of Mandamus or any other appropriate Writ shall not be issued to restore the Licence of 'Happiest Hour' bearing No.97 dated 11.04.2025 for establishment of bar for selling liquor, etc.

AND

Issue Rule the calling upon Respondents to show cause as to why the show cause notice dated 10.09.2025 issued by Superintendent of Excise, West Tripura District and the Meeting/Hearing held on 12.09.2025 pursuant to hearing Notice dated 11.09.2025 by the same authority shall not be set aside and quashed being without jurisdiction and violative of section 40 of the Tripura Excise Act, 1987.

iv. And after hearing the parties be pleased to make the rule absolute.

AND

In the interim, be pleased to stay the operation and effect of the impugned order dated 16.09.2025 till disposal of the connected Writ Petition."

[3] The brief facts of the case is that, the petitioner approaches this Court for setting aside the order dated 16.09.2025 issued by the Respondent No.3, i.e., Collector of Excise, West Tripura District, whereby the Respondent No.3 has cancelled the license of the Petitioner bearing license No.97 dated 11.04.2025 with immediate effect. It is to be mentioned here that after following all formalities under the Tripura Excise Act, 1987, it was decided to commence the functioning of Restaurant cum Bar with effect from 7th September, 2025. It was further decided that on 6th September, 2025 inaugural function or opening day of the 'Restaurant cum Bar' would be organized and accordingly for 6th September, 2025 the Management decided to invite many of it's personal invitees like friends, relatives and family members, etc. No outsider was permitted after 10.30 P.M on 06.09.2025 and as because 06.09.2025 was the inaugural day or opening day, the hospitality for the personal invitees of the management extended beyond 11:00 P.M. No untoward incident took place inside the property of UD Bhawan or in the space allotted to Happiest Hour. But, media collected some interviews containing false and misleading information that the Happiest Hour was a night club, pub, etc. Thereafter, the licence No.97 of the petitioner was subjected to show cause notice, hearing and finally cancelled.

[4] It is the case of the petitioner that the petitioner has obtained license to run Restaurant cum Bar vide licence No. 97 dated 11.04.2025 issued by the Collector of Excise, West Tripura District under The Tripura Excise Act and Rules and on 10.09.2025 to his surprise, he

received a show cause notice stating that why his license should not be cancelled or suspended on the allegation of violation of Clause 8 of the license agreement for running restaurant beyond 11:00PM on 06.09.2025. To the said notice, he issued a reply dated 11.09.2025. He was called for hearing on 12.09.2025. He further submitted another reply on 15.09.2025. Thereafter, a final order of cancellation has been passed on 16.09.2025 by the Collector of Excise, West Tripura District. Aggrieved thereby, the present writ petition has been filed.

[5] Learned Senior counsel Ms. Kiran Suri, appearing for the petitioner submits before this Court that on 06.09.2025 was the opening day or inaugural day of the Restaurant cum Bar and was an event day for the management. The same was outside the scheduled functioning of the Restaurant cum Bar. On that day, the management had invited its personal guests. No Outsider was allowed after 10.30 P.M. The gathering present after 10.30 P.M were the personal guests and invitees of the Management of Happiest Hour. Since, the day was an event day and inaugural day, the hospitality to the guests and invitees extended beyond 11:00 P.M of 06.09.2025. She further argued that since, the issuance of license dated 11.04.2025, they could not open the restaurant till 06.09.2025, because they were making the restaurant interior done althrough and on 06.09.2025 there was an inaugural function and on the next day they were about to commence the business. She further argued that the reference indicated in the show cause notice was also not furnished to them on request.

[6] Learned Senior counsel further submits that actual business commencement of the Restaurant cum Bar was from 07.09.2025 and all conditions of grant of licence as well as the requirement of fulfilment of local laws and the central laws is being strictly followed. All conditions

of licence including the time schedule i.e. from 11 A.M to 11 P.M is being strictly adhered to w.e.f the date of commencement of the schedule functioning of the Restaurant cum Bar i.e. from 07.09.2025.

[7] She also contends before this Court on the few points i.e. principle of natural justice is completely violated in the matter as it is seen that three days time was given to the petitioner to reply the show cause notice in spite of the fact that the petitioner is out of station. Thereafter, hearing notice was also issued during these three days. She submits that hearing cannot take place without getting any reply of show cause notice. According to her, it is a case of procedural impropriety as it is seen that no fairness in the procedure was adopted by the authority. She further submits that the notice was issued by the superintendent of Excise and the order was passed by the Collector of Excise, she also submits that Superintendent of Excise has no jurisdiction to initiate the procedure. Lastly, she submits that concept of proportionality has already been considered as part of any action to be taken which is reserved in civil consequences. Therefore, she prays before this Court to set aside the impugned order dated 16.09.2025 as it is an arbitrary, unreasonable and non-speaking order which is given without any reason.

[8] Ms. Suri, learned Senior counsel in continuation of her argument placed reliance on the judgments of Hon'ble Apex Court which are as under :-

1. Gorkha Security Services Vs. Government (NCT of Delhi) and Others reported in (2014) 9 SCC 105.

2. Oryx Fisheries Private Limited Vs. Union of India & Ors. reported in (2010) 13 SCC 427.

3. UMC Technologies Private Limited Vs. Food Corporation of India & Anr. reported in (2021) 2 SCC 551.

4. Deepak Ananda Patil Vs. State of Maharashtra & Ors.
reported in (2023) 11 SCC 130.

5. Madhyamam Broadcasting Limited Vs. Union of India & Ors. reported in (2023) 13 SCC 401.

6. Laxmi Raj Shetty & Anr. Vs. State of Tamil Nadu,
reported in (1988) 3 SCC 319 and lastly on

7. Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai & Ors. reported in (1998) 8 SCC 1.

And prayed to allow the writ and grant the relief prayed.

[9] Mr. D. Sarma, learned Addl. G.A. submits that license was issued on 11.04.2025 and it was reasonably presumed that they were conducting the business and there was no intimation to the Excise Department from the licensee that they were not doing the business, they only commenced function on the inaugural day and the business would come into effect on the next following day and admittedly, the Restaurant cum Bar was opened on 06.09.2025 beyond 11:00 PM which is a gross violation of Clause 8 of the agreement. He further contended that the show cause notice was issued and explanation was received, thereafter, hearing was conducted and final order of cancellation was passed and there was no violation of principle of natural justice .

[10] Learned Addl. G.A. also submits that with regard to the disputed question of facts that they were not running the business althrough and they were only having the inaugural function on 06.09.2025, it was always open for them to file an appeal under Section 6 of the Tripura Excise Act, 1987 before the appellate authority and contended that the judgment relied by the petitioner have no relevance to the facts of the present case and prayed to dismiss the case.

[11] Heard both sides and perused the records.

[12] Admitted, this was an existing license and reasonably presumed that the business is in vogue under the said license unless the licensing authority is informed about the commencement of the business. In the present case, the licensee failed to keep the officers concerned informed about the non-functioning of the business and inaugural functions as well. Thus, violation of license condition no.8 for running the restaurant beyond working hour 11:00 AM to 11:00 PM. Therefore, respondents took cognizance of the matter.

[13] It is seen from the record that the petitioner herein has been served a show cause notice under Section 40 (1)(c) of the Tripura Excise Act, 1987 for violation of the Clause 8 of the license vide No. 97 dated 11.04.2025. The relevant portion of the above Section is quoted hereunder:-

“40. Power to cancel or suspend license, permit or pass:-

(1) Subject to such restrictions as the State Government may prescribe, the authority who granted any license, permit or pass under this Act may cancel or suspend it-

(a) If it is transferred or sublet by the holder thereof without the permission of the said authority; or

(b) if any duty or fee payable by the holder thereof be not duly paid;

Or

(c) in the event of any breach by the holder thereof, or by any of his servants, or by any one acting on his behalf with his express or implied permission, of the terms or conditions thereof; or

(d) if the holder thereof is convicted of any offence punishable under this Act or of any other law for the time being in force relating to revenue, or of any cognizable and non-bailable offence or any offence punishable under the Narcotic Drug and Psychotropic Substances Act, 1985, or under the Trade and Merchandise Marks Act, 1958 (43 of 1958), or under any section which has been introduced into the Indian Penal Code by section 3 of that Act (Act XLV of 1860); or under the Medical and Toilet Preparations (Excise duties) Act, 1945 or

(e) if the holder thereof is punished for any offence under the Customs Act, 1962 or

(f) Where a license, permit or pass has been granted on the application of the holder of any exclusive privilege granted under section 20 on the requisition in writing of such holder; or

(g) if the conditions of the license, permit or pass provided for such cancellation or suspension at will.

(2) When a license, permit or pass held by any person is cancelled under clause (a), clause (b), clause (c), clause (d), or clause (e) of sub-section (1) the authority aforesaid may cancel any other license, permit or pass granted to such person by, or by the authority of, the State Government under this Act, or under the Narcotic Drugs and Psychotropic Substances Act, 1985.

(3) The holder of a license, permit or pass shall not be entitled to any compensation for its cancellation or suspension under this section, or to the refund of any fee paid or deposit made in respect thereof.”

[14] In this regard, a show cause notice dated 10.09.2025 issued by the Superintendent of Excise is extracted as under :-

“

GOVERNMENT OF TRIPURA
OFFICE OF THE COLLECTOR OF EXCISE
WEST TRIPURA DISTRICT



Dated 10/09/2025.

SHOW-CAUSE NOTICE

WHEREAS, license vide No. 07 dated, 11:04 2025 was issued by the Collector of Excise, West Tripura District in favour of Sri Goutam Debnath for art establishment of BAR for sale of IMFL, FMFL, BEER or any other intoxicants as per Tripura Excise Act && Rules, in loose for consumption on licensed premises,

AND

WHEREAS, it was published in different daily news papers that the Happiest Hour Bar at Rooftop of U.D. Bhawan, Near Rabindra Satabarshiki Bhawan, Agartala was functioning and serving liquor late night on 06 September, 2025.

AND

WHEREAS, as per Clause 8 of the above mentioned. BAR license wherein stated "That the prescribed business hour for the Bar shall be 11:00 AM to 11:00 PM

AND

WHEREAS, on scrutiny of CCTV footage from the Networking Video Recorder (NVR) of the Happiest Hour Bar, it has established that the aforesaid Bar was functioning and serving liquor from 11:00 PM onwards of dated, 06-09-2025 which leads prima facie against Sri Goutam Debnath, Licensee of Happiest Hour BAR for breaching the clause 8 of aforesaid license.

AND

WHEREAS, as per Clause 18 of the aforesaid BAR license, wherein stated "Infringement of any of the above condition may subject the holder of this license to forfeiture of the license and to all or any of the penalties prescribed by law or Rule”.

NOW, THEREFORE, Sri Goutam Debnath. Licensee of Happiest Hour BAR is hereby asked as to why his Bar license shall not be cancelled or suspend as per Section 40 (1) (c) of the Tripura Excise Act, 1987 for violation of the Clause 8 of the license vide No. 97 dated. 11-04-2025

In this regard, you are hereby directed to submit your explanation within 3 (three) days from the date of receipt of this show-cause notice, failing of which ex-parte decision will be taken as per prevailing Act & Rules of Tripura Excise made there under.

Signed by Abhiram
Debbarma

Date: 10-09-2025 13:36:39 (Abhiram
Debbarma, TCS)

Superintendent of Excise West Tripura
District.....”

[15] This Court draws the attention of the license conditions dated 11.04.2025 issued by the Collector of Excise, West Tripura District, accordingly, the relevant portion of the license agreement is extracted hereunder:-

“..... Clause.8. That the prescribed business hour for the Bar shall be 11.00AM to 11.00 PM.....”

[16] As seen from the record, after the issuance of show cause notice reply letters dated 11.09.2025 and 15.09.2025 has been submitted by the petitioner but, during that period hearing also took place on 12.09.2025 in the office chamber of the Superintendent of Excise. Thereafter, Collector of Excise, Govt. of Tripura, West Tripura District passed an order dated 16.09.2025 cancelling the license of the Restaurant cum Bar (Happiest Hour), the same is extracted as under :-

“
.....
GOVERNMENT OF THIPUBA
OFFICE OF THE CC LECTOR OF EXCISE
WEST TRIPURA DISTRICT

ORDER

Dated: 16/09/2025

WHEREAS, license vide No, 97 dated, 11-04-2025 was issued by the Collector of Excise, West Tripura District in favour of Bri Gautam Debnath for an establishment of Restaurant cum BAR in the name of Happiest Hour' for sale of IMFL, FMPL, BEER or any other intoxicants as per Tripura Excise Act & Rules, in loose for consumption on licensed premises.

AND

WHEREAS, as per Clause 8 of the above mentioned Restaurant cum BAB license wherein stated "That the prescribed business hour for the Bar shall be 11:00 AM to 11:00 PM

AND

WHEREAS, as per Notification vide No.F.IV-5(5):EX/2024/2173-83 dated, 19-12-2024, wherein Standalone license (Restaurant cum Bar) was issued on 11-04-2025 on realization of prescribed license fees.

AND

WHEREAS, It was/were published in different daily news papers as well as electronic/social medias that the Happiest Hour Bar at Rooftop of U. Bhawan, Neur Rabindra Satabarshiki Bhawan, Agartala was functioning, serving and permission to consuming liquor 11:00 PM onwards on 06th September, 2025

AND

WHEREAS, as per the license conditions, consumption of liquor beyond prescribed business hour is not at all permissible.

AND

WHEREAS, it is also reported by the Officer In-Charge (Excise) of the said Bar that the liquor was served to the customer at Happiest Hour Bar premises after 11:00 PM.

AND

WHEREAS, it is also reported by the Officer-in-Charge (Excise) of the said Bar that the liquor was also served to two numbers enclosures which are not authorized as per license conditions and therefore, it is in violation of the Clause 5 (vi) of the notification vide No. F.IV-5(5)-EX/17 dated, 19-08-2019 read with notification vide No F.II-5(5)-EX/2025/814-22 dated, 27-05-2025

AND

WHEREAS, Show-Cause Notice was issued by the Superintendent of Excise on 10-09-2025 against Sri Goutam Debnath, licensee of Happiest Hour' Bar as to why his Bar license shall not be cancelled or suspended for violation of Clause 8 of the aforesaid Bar license.

WHEREAS, another Show-Cause Notice was issued by the undersigned on 12-09-2025 against Sri Goutam Debnath, licensee of Happiest Hour Bar as to why his bar license shall not be cancelled for his unlawful activities,

AND

AND WHEREAS, While hearing on 12-09-2025 at 05:00 PM in the Chamber of the Superintendent of Excise, the representatives of Happiest Hour Bar admitted that liquor was serving and consuming in the Bar premises beyond 11:00 PM on 06-09-2025

AND

WHEREAS, while hearing the representatives of Happiest Hour Bar admitted, DJ/ dance programme was organized at their Standalone license Bar premises upto late night on 06-09-2025 without any prior permission from Police or any competent authority. Moreover, the enquiry team also noticed the same while checking the CCTV footage of that Bar. Thus, DJ/ dance programme upto late night is treated as Night Club culture.

AND

WHEREAS, it is also established through CCTV footage that most of the ladies and gents in the Bar premises were dancing after drinking of liquor upto late night on 06-09-2025 which seems to be treated as night club culture and it may be extended to any kind of unworthy incident in the bar premises

AND

WHEREAS, Sr. Goutam Debnath, licensee of Happiest Hour bar did not reply in response to both the above Show Cause Notice within the valid period of time and as such, it is established that Sri Goutam Debnath, licensee of Happiest Hour Bar admitted his guilt.

AND

WHEREAS, as per Clause 16 of the aforesaid Bar license, wherein stated "the licensee shall submit a list of all persons working in his bar immediately before making it functional and notify any change at once occurring in respect of workers concerned. But, Sri Debnath, licensee of Happiest Hour Bar did not submit the same.

AND

WHEREAS, Sri Goutam Debnath, licensee of Happiest Hour" Bar in spite of be acquainted with the terms & conditions/guidelines of Standalone Bar license, he willfully violated all the rules regulations. Such conduct amounts to be a serious breach of law and demonstrates negligence in adhering to the mandatory conditions of the licensee.

AND

WHEREAS, your actions constitute a grave breach of law and deliberate disregard of the regulatory framework governing the operation of an Excise license Such misconduct cannot be tolerated in matters concerning Excise Administration.

AND

WHEREAS, as per Clause 18 of the aforesaid BAR license, wherein stated "Infringement of any of the above condition may subject the holder of this license to forfeiture of the license and to all or any of the penalties prescribed by law or Rule

NOW, THEREFORE, in exercise of the powers vested under Section 40 (1) (c) the Tripura Excise Act, 1987 the license vide No. 97 dated 11 04-2025 issued in your of favour of Sri Goutam Debnath in the name of "Happiest Hour" Bar stands cancelled with immediate effect.

In this regard, it is hereby directed to stop all operations connected with the said license forthwith and to submit the original license documents to the office of the undersigned henceforth

Moreover, all stocks of liquor, beer etc and records relating to your excise business along with NVR of CCTV footage shall be produced before the superintendent of Excise henceforth for further necessary action.

Non compliance with the above directions will Invite further penal action, Including prosecution provided under the Tripura Excise Act, 1987.

Sd/-

(Dr. Vishal Kumar,
IAS) Collector of
Excise West Tripura
District)

To:

Goutam Debnath, Licensee of Happiest Hour BAR.

Chairman & Managing Director (CMD) of Oval Projects Engineering Pvt. Ltd, Rooftop of U.D. Bhawan, Near Rabindra Satabarshiki Bhawan, Agartala for compliance.

Copy To:

1. The Commissioner of Excise, Govt. of Tripura, Agartala for kind information Please
2. The Superintendent of Excise, West Tripura District for information and n/a
3. The Officer-in-Charge (Excise) of Happiest Hour Bar for information and n/a

[17] It is observed from the pleadings and the record that the petitioner has not chosen to avail remedies available under Section 6 of the Tripura Excise Act, 1987, since it is an appealable order. The relevant portion is of the aforesaid Section is quoted below :-

“6. Control, Appeal and Revision: (1) The Collector shall in respect of all proceedings under this Act, be subject to the control of the Excise Commissioner.

(2) Orders passed under this Act or under any rule made hereunder shall be appealable in such cases, to such authorities and under such procedures as may be prescribed.

(3) The State Government may revise any order passed by the Collector or the Excise Commissioner or by any officer exercising the powers of an appellate authority under any rule made under this Act.”

[18] For the purpose of ready reference the relevant portion of the judgments passed by the Hon’ble Apex Court is extracted as under:-

1. Gorkha Security Services Vs. Government (NCT of Delhi) and Others reported in (2014) 9 SCC105.

“Leave granted. The present appeals raise an interesting question of law pertaining to the form and content of Show cause notice that is required to be served before deciding as to whether the noticee is to be blacklisted or not. We may point out at the outset that there is no quarrel between the parties on the proposition that it is a mandatory requirement to give such a show-cause notice before blacklisting. It is also undisputed that in the present case the show-cause notice which was given for alleged failure on the part of the appellant herein to commence/execute the work that was awarded to the appellant, did not specifically propose the action of blacklisting the appellant firm. The question is as to whether it is a mandatory requirement that there has to be a stipulation contained in the show-cause notice that action of blacklisting is proposed? If yes, is it permissible to discern it from the reading of the impugned show-cause notice, even when not specifically mentioned, that the appellant understood that it was about the proposed action of blacklisting that could be taken against him?

Necessity of serving show-cause notice as a requisite of the principles of natural justice

16. It is a common case of the parties that the blacklisting has to be preceded by a show-cause notice. Law in this regard is firmly grounded and The necessity of compliance the principles of natural justice by giving the opportunity to the person against whom action of blacklisting is sought to be taken has a valid and solid rationale behind it. With blacklisting, many civil

and/or evil consequences follow. It is described as "civil death" of a person who is foisted with the order of blacklisting. Such an order is stigmatic in nature and debars such a person from participating in government tenders which means precluding him from the award of government contracts.

Contents of the show-cause notice

21. The central issue, however, pertains to the requirement of stating the action which is proposed to be taken. The fundamental purpose behind the serving of show-cause notice is to make the noticee understand the precise case set up against him which he has to meet. This would require the statement of imputations detailing out the alleged breaches and defaults he has committed, so that he gets an opportunity to rebut the same. Another requirement, according to us, is the nature of action which is proposed to be taken for such a breach. That should also be stated so that the noticee is able to point out that proposed action is not warranted in the given case, even if the defaults/breaches complained of are not satisfactorily explained. When it comes to blacklisting, this requirement becomes all the more imperative, having regard to the fact that it is harshest possible action."

2. **Oryx Fisheries Private Limited Vs. Union of India & Ors.**

reported in (2010) 13 SCC 427.

"31. It is of course true that the show-cause notice cannot be read hypertechnically and it is well settled that it is to be read reasonably. But one thing is clear that while reading a show-cause notice the person who is subject to it must get an impression that he will get an effective opportunity to rebut the allegations contained in the show-cause notice and prove his Innocence. If on a reasonable reading of a show-cause notice a person of ordinary prudence gets the feeling that his reply to the show-cause notice will be an empty ceremony and he will merely knock his head against the impenetrable wall of prejudged opinion, such a show-cause notice does not a proceeding under a statutory regulation which promises to give the person commence a fair procedure especially when it is issued in a quasi-judicial proceeded against a reasonable opportunity of defence.

36. The appellant gave a reply to the show-cause notice but in the order of the third respondent by which registration certificate of the appellant was cancelled, no reference was made to the reply of the appellant, except saying that it is not satisfactory. The cancellation order is totally a non-speaking one. The relevant portion of the cancellation order is set out:.....".

3. **UMC Technologies Private Limited Vs. Food Corporation**

of India & Anr. reported in (2021) 2 SCC 551.

"13. At the outset, it must be noted that it is the first principle of civilised jurisprudence that a person against whom any action is sought to be taken or whose right or interests are being affected should be given a reasonable opportunity to defend himself. The basic principle of natural justice is that before adjudication starts, the authority concerned should give to the affected party a notice of the case against him so that he can defend himself. Such

notice should be adequate and the grounds necessitating action and the penalty/action proposed should be mentioned specifically and unambiguously. An order travelling beyond the bounds of notice is impermissible and without jurisdiction to that extent. This Court in *Nasir Ahmad v. Custodian General. Evacuee Property* has held that it is essential for the notice to specify the particular grounds on the basis of which an action is proposed to be taken so as to enable the noticee to answer the case against him. If these conditions are not satisfied, the person cannot be said to have been granted any reasonable opportunity of being heard.

19. In light of the above decisions, it is clear that a prior show-cause notice granting a reasonable opportunity of being heard is an essential element of all administrative decision-making and particularly so in decisions pertaining to blacklisting which entail grave consequences for the entity being blacklisted. In these cases, furnishing of a valid show-cause notice is critical and a failure to do so would be fatal to any order of blacklisting pursuant thereto.

4. **Deepak Ananda Patil Vs. State of Maharashtra & Ors.**
reported in (2023) 11 SCC 130.

“18. It is a well-established principle of Administrative Law that an adjudicatory body cannot base its decision on any material unless the person against whom it is sought to be utilised has been apprised of it and given an opportunity to respond to it. Surveying the precedents extensively, M.P. Jain and S.N. Jain's treatise on Principles of Administrative Law³ notes that:

"If the adjudicatory body is going to rely on any material, evidence or document for its decision against a party, then the same must be brought to his notice and he be given an opportunity to rebut it or comment thereon. It is regarded as a fundamental principle of natural justice that no material ought to be relied on against a party without giving him an opportunity to respond to the same. The right of being heard may be of little value if the individual is kept in the dark as to the evidence against him and is not given an opportunity to deal with it. The right to know the material on which the authority is going to base its decision is an element of the right to defend oneself. If without disclosing any evidence to the party, the authority makes it into its consideration, and decides the matter against the party then the decision is vitiated for it amounts to denial of a real and effective opportunity to the party to meet the case against him. The principle can be of materials to the affected party has been held fatal to the validity of the seen operating in several judicial pronouncements where non-disclosure hearing proceedings."

5. **Madhyamam Broadcasting Limited Vs. Union of India & Ors.** reported in (2023) 13 SCC 401.

“42. The principles of natural justice were read into the law and conduct of judicial and administrative proceedings with an aim of securing fairness. These principles seek to realise the following four momentous purposes:

43. Fair outcome: Procedural rules are established to prevent the seepage of bias and unfairness in the process of decision-making. A decision that is

reached after following the procedural rules is expected to be fair. An outcome that is reached through a fair process is reliable and accurate. In the context of and the Code of Criminal Procedure, 1973 to secure the "correct" outcome and criminal proceedings, procedural rules are prescribed in the Evidence Act, 1872 and the Code of Criminal Procedure, 1973 to secure the "correct" out come and to identify the "truth".

45. Inherent value in fair procedure: Fair procedure is not only a means to the end of achieving a fair outcome but is an end in itself. Fair procedure induces equality in the proceedings. The proceedings "seem" to be and are seen to be fair. In *Surinder Singh Kanda v. State of the Federation of Malaya*¹⁴, an Inspector of Police challenged his dismissal on the ground that the disciplinary proceedings were not conducted in accordance with the principles of natural Justice. It was contended that he did not have knowledge of the contents of the Enquiry report that was before the adjudicating officer, Thort led to thikase was whether his lack of knowledge of the contents of the report led to a likelihood of bither both conscious and unconscious. The Court held that the likelihood of babiest cantot be solely used to determine the violation of natural justice. The Rapet held thufficient if the non-disclosure would lead to a possibility of bias Court held that it is not necessary that the accused must prove bias or prejudice. and prejudice since "no one who has lost a case will believe he has been fairly treated if the other side has had access to the Judge without his knowing". The House of Lords held that non-disclosure of information is per se violative of the principles of fair trial.

46. Legitimacy of the decision and decision-making authority: When a decision is formed following the principles of natural justice, there is a perception that the decision is accurate and just. It preserves the integrity of the system as the decisions, in addition to being fair, also "appear" to be fair. The perception of the general public that the decisions appear to be fair is important in building public confidence in institutions, which aid in securing the legitimacy of the courts and other decision-making bodies.

47. Dignity of individuals: Non-outcome values, that is, values that are independent of the accuracy and soundness of the verdict, are intrinsically important. The principles of fairness "express the elementary idea that to be a person, rather than a thing, is at least to be consulted about what is done with one" 16 D.J. Galligan in his book *Due Process and Fair Procedures: A Study of Administrative Procedures* 17 explains that to insist on fair treatment is implicit on a renewed understanding of the relationship between citizens and the State:

"It builds on the idea of decision-making as a social process rather than a purely logical activity, on the inherent indeterminacy and contingency of standards... to insist on fair treatment of persons by administrative bodies is to draw on those implicit commitments and understandings at the very base of the relationship between the citizen and the State."

55. The judgment of this Court in *Maneka Gandh*⁽²²⁾ spearheaded two doctrinal shifts on procedural fairness because of the constitutionalising of natural justice:

55.1. Firstly, procedural fairness was no longer viewed merely as a means to secure a just outcome but a requirement that holds an inherent value in itself.

In view of this shift, the courts are now precluded from solely assessing procedural infringements based on whether the procedure would have prejudiced the outcome of the case.²⁹ Instead, the courts would have to decide if the procedure that was followed infringed upon the right to a fair and reasonable procedure, independent of the outcome. In compliance with this line of thought, the courts have read the principles of natural justice into an enactment to save it from being declared unconstitutional on procedural grounds,

55.2. Secondly, natural justice principles breathe reasonableness into the procedure. Responding to the argument that the principles of natural justice are not static but are capable of being moulded to the circumstances, it was held constitutional requirement entrenched in Articles 14, 19 and 21. The facet of that the core of natural justice guarantees a reasonable procedure which is audi alteram partem encompasses the components of notice, contents of the inquiry, and materials that are available for perusal. White notice, reports of situational modifications are permissible, the rules of natural justice cannot be modified to suit the needs of the situation to such an extent that the core reasonableness is abrogated. The burden is on the applicant to prove that the procedure that of the principle is abrogated because it is the core that infuses procedural was followed for not followed) by the adjudicating authority, in effect, infringes upon the core of the right to a fair and reasonable hearing.

E.3. Standard to test reasonableness of procedure: Proportionality as reasonableness

56. Once the applicant proves that the procedure that was followed was not reasonable with reference to the core of the principles of natural justice, the burden shifts on the State to prove that the limitation of the right is justified and reasonable. The State usually claims that the limitation of the right is justified because following a fair procedure would, inter alia, be prejudicial to public interest. What standard of review should the courts employ to test the reasonableness of the limitation? Rights are not absolute in a constitutional democracy. The jurisprudence that has emanated from this Court is that rights can be limited but such a limitation must be justified on the ground of reasonableness. Though, only Article 19 of the Constitution expressly prescribes that the limitation must be reasonable, after the judgments of this Court in *R.C. Cooper*²⁷ and *Maneka Gandhi*²² it is conclusive that the thread of reasonableness runs through the entire chapter on fundamental rights guiding the exercise of procedural and substantive limitations. That leaves us to answer the question of the standard used to assess the "reasonableness" of the limitation. The text of the Constitution does not prescribe a standard of review. Much ink has flowed from this Court in laying down the varying standards to test reasonability: rationality, *Wednesbury* unreasonableness, proportionality, and strict scrutiny.

57. Reasonableness is a normative concept that is identified by an evaluation of the relevant considerations and balancing them in accordance with their weight.³¹ It is value oriented and not purpose oriented. That is why the courts have been more than open in identifying that the action is unreasonable rather than identifying if the action is reasonable. This is also why the courts while assessing the reasonableness of limitations on fundamental rights have

adopted a higher standard of scrutiny in the form of proportionality. The link between reasonableness and proportionality and the necessity of using the proportionality standard to test the limitation on fundamental rights has been captured by Jackson. J. in the course of the Canadian Supreme Court's judgment in *R. v. Oakes*: (SCC OnLine Can SC paras 69-70)

"69. To establish that a limit is reasonable and demonstrably justified in a free and democratic society, two central criteria must be satisfied. First the objective, which the measures responsible for a limit on a "Charter right or freedom are designed to serve, must be "of sufficient importance to warrant overriding a constitutionally protected right or freedom..."

70.... the party invoking Section I must show that the means chosen are reasonable and demonstrably justified. This involves "a form of proportionality test:" emphasis supplied)

58. The proportionality analysis assesses both the object and the means utilised, which are pertinent requirements while testing an infringement of fundamental rights. This Court has held that the proportionality standard can be used to assess the validity of the action infringing upon fundamental freedoms. 35 However, the administrative body used the proportionality standard to only test the infringement of a substantive right such as the right to privacy protected under Article 21. and the freedoms protected under Article 19. Courts have been using a vague and unstructured standard of the reasonableness to assess the validity of limitations on procedural due process.

61.1. Reasoned order: In the present case, the notice to show cause states that MHA has denied security clearance to MBL to operate its channel. Media One. However, it does not mention the reasons for the denial of security clearance. Further, the order dated 31-1-2022 denying the permission for renewal of licence also does not provide reasons for the denial of security clearance. In such circumstances, MBL was put in a precarious position without any actual recourse to defend the case against them:

61.2. Disclosure of material relevant to the decision: MHA declined to disclose any material that was relevant to its decision. The claim of non-disclosure of relevant documents by MHA was not limited to a few "top secret" documents. Rather, all documents that were relevant to the decision have not been disclosed; and

61.3. Open Justice: MHA disclosed the documents in a sealed cover to the High Court. The High Court dismissed the writ petition by relying on the material that was disclosed solely to it in sealed cover. The relevant material is not removed from the proceedings. The material is only removed from the affected party's docket. The party defending its actions, which most often is the State, and adjudicating authority rely on the material while making arguments and while reaching a finding respectively.

64. The principles of natural justice ensure that justice is not only done but it is seen to be done as well. A reasoned order is one of the fundamental requirements of fair administration. It holds utmost significance in ensuring fairness; scholars and courts now term it as the third principle of natural justice, 40 The rule of a reasoned order serves five important purposes:

64.1. Firstly, it ensures transparency and accountability. It places a check on arbitrary exercise of power. Lord Denning observed that in giving reasons

"lies a whole difference between a judicial decision and an arbitrary one" Bhagwati, J. observed in *Maneka Gandhi* that the rule is "designed to secure the rule of law and the court should not be too ready to eschew it in its application to a given case".

64.2. Secondly, non-reasoned orders have the practical effect of placing the decision out of the purview of judicial review. A non-reasoned order limits the power of the courts to exercise judicial review because the scope of judicial review is not limited to the final finding on law or facts but extends to the reasons to arrive at the finding. A limitation on the right to appeal necessarily means that the scope of judicial review is restricted.

64.3. Thirdly, articulation of reasons aids in arriving at a just decision by minimalising concerns of arbitrary State action. 42 It introduces clarity of thought and eschews irrelevant and extraneous considerations.

64.4. Fourthly, it enhances the legitimacy of the institution because decisions will appear to be fair. There is a higher probability that the finding through a reasoned order is just.

64.5. Fifthly, reasoned orders are in furtherance of the right to information and the constitutional goal of open government. Secrecy broods partiality, corruption and other vices that are antithetical to a governance model that is premised on the Rule of Law.

6. *Laxmi Raj Shetty & Anr. Vs. State of Tamil Nadu*, reported in 1988 (3) SCC 319.

"25. As to the first, the accused Laxmi Raj Shetty was entitled to tender the newspaper report from the Indian Express of the 29th Section 313 of the Code of Criminal Procedure, 1973, and the regional newspapers of the 30th along with his statement under accused at the stage of their defence in denial of the charge had summoned the editors of Tamil dailies *Malai Murasu* and *Makkal Kural* and the news reporters of the Indian Express and *Dina Thanthi* to prove the contents of the facts stated in the news item but they dispensed with their examination on the date fixed for the defence evidence. We cannot take judicial notice of the facts stated in a news item being in the nature of hearsay secondary evidence, unless proved by evidence aliunde. A report in a newspaper is only hearsay evidence. A newspaper is not one of the documents referred to in Section 78(2) of the Evidence Act, 1872 by which an allegation of fact can be proved. The presumption of genuineness attached under Section 81 of the Evidence Act to a newspaper report cannot be treated as proved of the facts reported therein.

26. It is now well settled that a statement of fact contained in a newspaper is merely hearsay and therefore inadmissible in evidence in absence of the maker of the statement appearing in court and deposing to have perceived the fact reported. The accused should have therefore produced the persons in whose presence the seizure of the stolen money from appellant 2's house at Mangalore was effected or examined the press correspondents in proof of the truth of the contents of the news item. The question as to the admissibility of newspaper reports has been dealt with by this Court in *Samant N. Balkrishna*

v. George Fernandez. There the question arose whether Shri George Fernandez, the successful candidate returned to Parliament from the Bombay South.....”.

7. Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai & Ors. reported in (1998) 8 SCC 1.

“11.Mr Chagla, in reply, has submitted that where the action initiated by a statutory authority is wholly without jurisdiction, it can be challenged under Article 226 of the Constitution and the writ petition cannot be dismissed summarily. In the instant case, the Registrar, it is contended, could not have legally acted as the Tribunal as the "proceeding concerned" was pending before the High Court and, therefore, the High Court alone could have acted as a "Tribunal" and initiated action under Section 56(4) of the Act.

“15. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative a remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case-law on this point but to cut down this circle of forensic b whirlpool, we would rely on some old decisions of the evolutionary era of the constitutional law as they still hold the field.

17. A specific and clear rule was laid down in State of U.P. v. Mohd. Nooh as under:

"But this rule requiring the exhaustion of statutory remedies before the writ will be granted is a rule of policy, convenience and discretion rather than a rule of law and instances are numerous where a writ of e certiorari has been issued in spite of the fact that the aggrieved party had other adequate legal remedies....

20. Much water has since flown under the bridge, but there has been no corrosive effect on these decisions which, though old, continue to hold the field with the result that law as to the jurisdiction of the High Court in entertaining a writ petition under Article 226 of the Constitution, in spite of the alternative statutory remedies, is not affected, specially in a case where the authority against whom the writ is filed is shown to have had no jurisdiction or had purported to usurp jurisdiction without any legal foundation.

21.That being so, the High Court was not justified in dismissing the writ petition at the initial stage without examining the contention that the show-cause notice issued to the appellant was wholly without jurisdiction and that the Registrar, in the circumstances of the case, was not justified in acting as the "Tribunal"

23. Section 56, under which the notice to show cause has been issued to the appellant, provides as under:

"56. Power to cancel or vary registration and to rectify the register. (1) On application made in the prescribed manner to a High Court or to the Registrar by any person aggrieved, the Tribunal may make such order as it may think fit for the cancelling or varying the registration of a trade mark on the ground of any contravention, or failure to observe a condition entered on the register in relation thereto...."

[19] No where in the show cause notice, cancellation order and in the argument of the Govt. Advocate, it is stated that the respondent officials have served the copies of newspapers or disclosed the names of publication/ newspaper to the petitioner. The respondents only proceeded under the premise, that the licensee has violated license conditions based upon the news items. The respondents have not conducted any kind of departmental enquiry independently to ascertain the facts of the commencement of business by violation of license condition.

[20] The licensing authority under the statute is the Collector. The show cause notice is supposed to be issued by the licensing authority. But in the present case the Excise Superintendent issued show cause notice. There is no delegation of powers conferred by competent authority upon the Excise Superintendent to issue Show cause notice. The Collector passed the cancellation order without there being a Show cause notice from his end.

[21] The reasons indicated in the Show cause notice under Section 40 and the cancellation orders are different. The Collector has incorporated some new facts in cancellation order which does not form part of show cause notice. There is no reference to clause 16 in show cause notice and the same finds place in cancellation order. The show cause notice speaks about some enquiry officials/ team at the premises. There is no discussion in the cancellation order about the work done by

enquiry team nor enquiry report. There is no evidence reflected in the show cause notice nor in impugned order about the seizure of liquor, records to say that licensee has commenced the business from 11.04.2025 and on 06.09.2025 was conducting business beyond permissible time.

[22] In view of the above discussion, for the procedural lapses, jurisdictional and violation of principle of natural justice committed by the respondents, this Court declines to uphold the impugned cancellation order dated 16.09.2025 and opines that the same is liable to be set aside.

[23] Accordingly, the impugned order is set aside and the writ petition is allowed, directing the respondents to permit the petitioner to carry on the business forthwith as per license conditions.

[24] As a sequel, miscellaneous application(s), pending if any, shall stand closed.

DR. T. AMARNATH GOUD, J

Paritosh

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