

**HIGH COURT OF TRIPURA
AGARTALA**

WA No.111 of 2025

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
5. Society for Management of UD Bhawan, Represented by its 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

.....Appellant(s)

Versus

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 roof top of UD Bhawan, Shakuntala Road, P.O. Agartala, P.S. West Agartala, Dist: West Tripura, PIN-799001

.....Respondent(s).

For Appellant(s) : Mr. Saktimoy Chakraborti, Advocate General,
Mr. P. Gautam, Sr. G.A.,
Mr. Kohinoor Narayan Bhattacharyya, G.A.,
Mr. Dipankar Sarma, Addl. G.A.,
Mrs. Pinki Chakraborty, Advocate.

For Respondent(s) : Ms. Kiran Suri, Sr. Advocate,
Mr. Arijit Bhaumik, Advocate,
Ms. Ishpa Chakma, Advocate,
Mr. Prasun Bhattacharjee, Advocate.

**HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA**

Order

19/11/2025

This Writ Appeal is preferred against the judgment of the learned
Single Judge in WP(C) No.602/2025 dt. 03.11.2025.

2. The respondent herein was granted a licence by the Collector of Excise, West Tripura District-third appellant herein (for short 'Collector') on 11.04.2025 to run a bar for a period of one year.

3. One of the conditions of the licence granted to the respondent mentioned that the prescribed business hour for the bar would be 11 AM to 11 PM.

4. Alleging that the respondent had kept the bar open beyond 11 PM on the night of 6th September, 2025, a show cause notice was issued to the respondent on 10.09.2025 by the Superintendent of Excise, West Tripura District (fourth appellant herein), and it was pointed out therein that the clause in the liquor licence prohibiting functioning beyond 11 PM had been violated, and under Clause 18, such infringement would subject the holder of the licence to forfeiture of the licence, and to all or any of the penalties prescribed by law or rules. The respondent was asked to show cause why the bar licence cannot be cancelled or suspended as per Section 40(1)(c) of the Tripura Excise Act, 1987.

5. The respondent was granted time of three days for replying to the said show cause notice.

6. A request was filed on 11.09.2025 by the respondent to the said show cause notice requesting for further time to reply to the same on the ground that the licensee was not in station.

7. On 15.09.2025, a detailed reply was furnished to the show cause notice dt. 10.09.2025.

8. In the meantime, a notice of hearing of the matter before the Collector was served on the petitioner by the Superintendent of Excise fixing 12.09.2025 for a personal hearing.

9. On 16.09.2025, the Collector passed an order directing the respondent to stop all operations connected with the bar licence.

10. Challenging the same, the respondent filed WP(C) No.602/2025.

11. It was contended before the learned Single Judge by the respondent that the person who issued the licence is the Collector, but the show cause notice was issued by the Excise Superintendent. There was no delegation of power upon the Excise Superintendent by the Collector to issue the show cause notice.

12. It was also contended that the Collector who passed the cancellation order, had violated principles of natural justice because he did not issue any show cause notice.

13. It is further contended that no independent inquiry was done by the Collector before passing of the impugned order.

14. Though appellants opposed the Writ Petition, the Single Judge allowed the same by the impugned judgment dt. 03.11.2025 on the ground that there was procedural lapses, jurisdictional violation as well as violation of principles of natural justice, and set aside the order of cancellation dt. 16.09.2025, and directed the appellants to permit the respondent to carry on the business forthwith as per licence conditions.

15. Challenging the same, this Writ Appeal is filed by the appellants.

16. Learned Advocate General appearing for the appellants contends that the impugned order is erroneous, that even in the explanation to the show

cause notice given by the respondent, the violation of the time limit prescribed in the licence for conducting the business, is admitted, and the Single Judge erred in interfering with the order passed by the Collector cancelling the licence granted to the respondent.

17. Counsel for the respondent supported the judgment of the learned Single Judge.

18. Admittedly, the licensing authority under the Tripura Excise Act for running a bar is the Collector. If there is any violation of the terms of the licence issued by the Collector to the licensee, show cause notice has to be issued by him alone. The Excise Superintendent could not have issued it as in the instant case.

19. Therefore, on the basis of a show cause notice issued by the Excise Superintendent, the Collector could not have passed the cancellation order.

20. Therefore, we agree with the findings of the learned Single Judge that there was procedural, jurisdictional and principles of natural justice violations committed by the appellants, and to that extent the order of the learned Single Judge is affirmed.

21. However, that does not conclude the matter because whether as a matter of fact, there is a violation of the terms of licence by the respondent and whether cancellation is the proportionate punishment for a single violation is required to be inquired into and considered by the Collector by giving opportunity to the respondent to prove otherwise.

22. In this view of the matter, we are of the opinion that the order of the learned Single Judge is required to be modified to the following extent:

(a) The impugned order dt. 16.09.2025 passed by the Collector of Excise, West Tripura District (third appellant) is set aside;

(b) The third appellant shall issue a show cause notice to the respondent within one week from today;

(c) Within one week of receipt of the same, the respondent shall submit explanation thereto;

(d) An inquiry shall be conducted by the third appellant after complying with principles of natural justice, and then a reasoned order shall be passed by the third appellant, and he shall communicate the same to the respondent.

23. This entire exercise shall be completed by 15th December, 2025. Only if the third appellant were to hold in favour of the respondent, or if he holds that a lesser punishment other than cancellation of licence is warranted, the respondent shall be permitted to run the bar according to the licence granted.

24. The appeal is allowed to the above extent. Pending application(s), if any, shall stand disposed of.

(S. DATTA PURKAYASTHA, J)

(M.S. RAMACHANDRA RAO, CJ)

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PULAK BANIK

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