

RESERVED ON 09TH JULY 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF JULY, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MRS. JUSTICE K.S. HEMALEKHA

WRIT APPEAL NO.463 OF 2025 (EXCISE)

BETWEEN:

1. THE DEPUTY COMMISSIONER,
DISTRICT ADMINISTRATION BUILDING,
KUMBARHALLI, TAMAKA,
KOLAR-563 101.
2. THE DEPUTY COMMISSIONER OF EXCISE
D.C.OFFICE COMPOUND,
COURT CIRCLE, KOLAR DISTRICT,
KOLAR-563 101.
3. THE COMMISSIONER OF EXCISE IN KARNATAKA,
2ND FLOOR, BMTc COMPLEX,
SHANTHINAGAR,
BANGALORE-560 027.

...APPELLANTS

(BY SRI. K.S. HARISH, GOVERNMENT ADVOCATE)

AND:

1. R. VENKATACHALAPATHI
S/O K.M. RAMAIAH,
AGED ABOUT 37 YEARS,
CL-9 LICENSEE, SY.NO.52/14,
JODIKRISHNAPURA VILLAGE,
NARASAPURA HOBLI,
KOLAR TALUK,
KOLAR DISTRICT-563 101.

Digitally signed
by C K LATHA
Location: High
Court of
Karnataka

2. SRI G.O. KRISHNA
S/O OBAIAH,
R/O NO.1229/6, 9TH 'C' CROSS,
SRINAGAR, BANGALORE-560 027.

...RESPONDENTS

(BY SRI. MOHAN BHAT, ADVOCATE FOR R-1;
R-2 IS SERVED & UNREPRESENTED)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER DATED 18.03.2024 PASSED IN W.P.NO.27254/2018 (EXCISE) BY THE LEARNED SINGLE JUDGE AND DISMISS THE SAID WRIT PETITION WITH EXEMPLARY COST.

THIS WRIT APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT, COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS PRONOUNCED AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU ,CHIEF JUSTICE
and
HON'BLE MRS. JUSTICE K.S. HEMALEKHA

C.A.V. JUDGMENT

(PER: HON'BLE MRS. JUSTICE K.S. HEMALEKHA)

1. This intra-court appeal is preferred by the State impugning the order dated 18.03.2024 [**impugned order**] passed by the learned Single Judge in Writ Petition No. 27254/2018 [Excise] whereby the writ petition filed by respondent No.1 was allowed and the order dated 13.03.2018 passed by the Karnataka Appellate Tribunal [**the Tribunal**] in Appeal No. 830/2014 was set aside in so far as it relates to cancelling the permission granted to shift

respondent No.1's CL-9 licence from Petachamanahalli Village to Jodikrishnapura Village.

Brief Facts

2. Respondent No.1 is the holder of CL-9 licence originally granted during the excise year 1998-1999 under the Tourism Promotion Scheme in favour of one Sri G.Yoginarayana Gowda for a licensed premises situated at Petachamanahalli Village, Kolar Taluk. The licence was subsequently transferred on 08.11.2010 in favour of respondent No.1 in accordance with the provisions of the Karnataka Excise Act, 1965 (**the Act**) and the Karnataka Excise Licences (General Conditions) Rules, 1967 (**the Rules, 1967**).

3. On account of the business not flourishing at the original location, respondent No.1 submitted an application seeking permission to shift the licensed premises to Jodikrishnapura Village, Narasapura Hobli. The Deputy Commissioner of Excise, by order dated 02.02.2013, accorded permission under Rule 23 of the Rules, 1967, on payment of the prescribed fee, pursuant to which respondent No.1 commenced business at the shifted premises. The said permission was, however, made subject to the condition that the order of shifting shall be withdrawn in the event of any dispute or litigation arising in respect of the change of place.

4. Subsequently, a show cause notice dated 03.09.2013 was issued to respondent No.1 calling upon him to show cause as to why the licence granted in his favour should not be withdrawn on the ground that he had violated the Tourism Policy by shifting the licensed premises to a village which was not approved or recognised as a tourist destination and proceedings were initiated under Section 30 of the Act. By order dated 29.10.2013/07.11.2013, the Deputy Commissioner withdrew the licence of respondent No.1 holding that the permission to shift was contrary to the Government Circular dated 20.12.1995 governing the grant of CL-9 licences under the Tourism Promotion Scheme (**the Scheme**). Respondent No.1 initially assailed the said order before this Court in W.P. No. 51039/2013 [Excise] which was rejected by order dated 04.06.2014, reserving liberty to avail statutory remedy of appeal. The statutory appeal preferred by respondent No.1 before the Commissioner of Excise under Section 61(2) of the Act came to be dismissed by an order dated 25.08.2014.

5. Aggrieved, respondent No.1 preferred Appeal No. 830/2014 before the Tribunal. By an order dated 13.03.2018, the Tribunal held that while the withdrawal of CL-9 licence was not justified, the

permission granted for shifting the licensed premises was contrary to the conditions governing the Scheme. Accordingly, it restored the licence, but cancelled the permission to shift and directed the authorities to consider re-shifting of the place of business of CL-9 licence back to the original place or to any other tourist destination recognised by the Department of Tourism, within the permissible radius and in accordance with law, if the appellants choose to do.

6. Impugning the said order, respondent No.1 filed W.P. No. 27254/2018. The learned Single Judge held that Rule 23 of the Rules, 1967 empowered the competent authority to permit shifting of the licensed premises, and held that neither the Act nor the Rules, 1967 nor the conditions in CL-9 licence, imposed any prohibition against such shifting, even though the CL-9 licence was granted to promote tourism. Consequently, the Writ Petition was allowed and the order of the Tribunal cancelling the permission to shift was quashed.

Contentions of the Parties

(I) Arguments of the State

7. The principal contention of the appellants is that respondent No.1 is the holder of a CL-9 licence originally granted under the Scheme which was introduced by the Government under the

Circular dated 20.12.1995. It is contended that the said Scheme was conceived to promote tourism by permitting establishment of bars and restaurants only at a recognised tourist destination or within a radius of 5 kilometers distance thereof. It is argued that the CL-9 licence, having been granted under the said Scheme, continued to remain governed by the conditions of the Scheme throughout its subsistence. Therefore, though Rule 23 of the Rules, 1967 empowers the Deputy Commissioner to permit shifting of a licensed premises, such power could be exercised only if the proposed place of business also satisfied the requirements of the Scheme. It is argued that since respondent No.1 shifted the licensed premises to Jodikrishnapura Village, which is admittedly not a recognized tourist destination, the permission granted by the Deputy Commissioner is contrary to the Government Circular and consequently the Tribunal was justified in canceling the permission to shift the licensed premises.

II. Arguments by respondent No.1

8. The learned counsel for respondent No.1 submits that Rule 23 of the Rules, 1967 is a statutory provision enabling the competent authority to permit shifting of licensed premises on payment of the prescribed fee. It is submitted that neither the Act

nor the Rules, 1967 nor the conditions incorporated in the CL-9 licence prohibits shifting of a licensed premises granted under the Scheme. It is further contended that the Government Circular dated 20.12.1995 merely prescribes the eligibility criteria for the grant of licences under the Scheme and does not impose any statutory embargo on subsequent relocation of the licensed premises. It is submitted that once a permission was granted by the competent authority under Rule 23, the same could not be annulled.

Analysis and Reasoning

9. Before advertizing to the rival submissions, it is necessary to examine the statutory framework governing the grant of CL-9 licence.

The Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968 (**the Rules, 1968**) under Rule 3 enumerate different categories of licences, namely CL-1 – wholesale licence for vend of Indian Liquor and/or foreign liquor, CL-2 – retail off shop licences for vend of Indian Liquor or Foreign Liquor or both not to be drunk on the premises, CL-4 - licence to clubs, CL-5 – substituted by G.O. dated 26.05.2026 - occasional licence, CL-6 – special licences, CL-6A – a Star Hotel licence - inserted by a notification

dated 29.06.2002 w.e.f. 01.07.2002, CL-7 – Hotel and Boarding House licences, tourist hotel licences, tourist hotel beer bar licences, licence to supply liquor on board of train engaged and run by Tourism Development Corporation of State Government or Central Government, CL-8 – military and special categories, CL-9 – licence for sale of Indian Liquor and/or Foreign liquor to be consumed on the licensed premises combined with meals and refreshment in a refreshment room/bar, CL-10, CL-11, CL-14, CL-15 – other specialized categories under the Rules.

10. For ready referral, CL-9 under Rule 3 (9) of the Rules, 1968 is extracted below :

“3. Licences.—Licences for the vend of Indian Liquor (other than arrack) or Foreign liquor or both shall be of the following descriptions, namely.—

x x x

(9) Refreshment Room (Bar) Licence.—

(a) A licence under this clause, for refreshment room (bar) for sale of Indian liquor combined with the supply of meals or eatables shall be applied and obtained in Form CL-9 from the Deputy Commissioner:

Provided that no such licence shall be granted by the Deputy Commissioner unless he is satisfied that the refreshment room (bar) provided the following accommodations and facilities.—

- (i) a kitchen with sufficient accommodation either with exhaust fan or proper ventilator. The customers shall

not pass through kitchen to go the toilet. Passage to the toilet shall be separate from the kitchen;

- (ii) a separate room (Dining Hall) for serving the liquor along- with meals or eatables for consumption. The space in the dining shall be so provided that not more than eight persons shall be accommodated in a built in floor area of 100 Sq. ft. (10x10) with a minimum of four feet space between the tables for the movement of customers and servers. Further, the total area of the Hall/Halls for dining shall not be less than 400 Sq. ft:

Provided that the minimum requirement of 400 Sq. fit, area for dining may be relaxed by the Deputy Commissioner of Excise in case of the licences existing on the dates of the commencement of the Karnataka Excise (Sale of Indian and Foreign Liquor) (Amendment) Rules, 1993:

Provided further that in case the licensee desired to shift the licensed premises to any other premises from the premises in which the licence is existing on the date of the commencement of the Karnataka Excise (Sale of Indian and Foreign Liquor) (Amendment) Rules, 1993, the above provisions shall apply without any relaxation.

- (iii) adequate seating arrangements;
- (iv) separate toilet with running water facilities for men and women.

(b) No sale of liquor for removal from the premises shall be permit-ted under the licence. No liquor shall be sold to persons who have not part taken of meals or eatables served in the licenced premises:

Provided that no licence under this sub-rule shall be granted in any predominantly residential area.”

11. Form CL-9 as prescribed under the Rules, 1968 is extracted below :

"FORM CL-9
[See Rule 3(9)]

Licence for the sale of Indian liquor (other than arrack) or Foreign liquor or both to be drunk in the premises, combined with meals and refreshment in the Refreshment Rooms (Bars).—

Register No.....

Name of licence holder.....

Address of Licence holder.....and Address of
Licence.....

Town.....

Locality Street.....

Door No.....

I, ... the Deputy Commissioner of
the District (in case of grant of
licence)/Deputy Commissioner of Excise
District (in case of renewal of licence) in consideration of
the payment of the prescribed licence fee of Rs.
..... do hereby authorise Sri.
son of Sri. residing in to sell Indian
liquor (other than arrack) or Foreign liquor or both at
premises No. situated in
subject to the conditions prescribed below.

CONDITIONS

1. The licensee shall be bound by the provisions of the Karnataka Excise Act, 1965 and any general or special rules prescribed or to time be prescribed thereunder.

2. The privilege under this licence extends to the sale of Indian liquor (other than arrack) or Foreign liquors of the brands furnished by the licensee. Any alterations and additions to the lists furnished should be approved by the Deputy Commissioner. No liquors below the strength of 25⁰ under proof in case of Brandy, Whisky and Rum and 35⁰ under proof in case of Gin and not more

than 8 per cent of alcohol by volume in case of Beer will ordinarily be included in the list.

2-A The licensee shall be bound to lift the minimum quantity of liquor prescribed under the Karnataka Excise Act, 1965 or the Rules framed thereunder from time to time.

3. The holder of this licence shall upon requisition by any officer not below the grade of Sub Inspector of Excise be bound to produce to such officer the original invoice showing the importation of all liquors for the sale of which this licence is granted for inspection and to all the samples of the liquors in the shop to be tested.

4. The licensee is bound to maintain correct daily accounts of transactions and submit the return every month to the Excise Officer concerned, within the first week of the following month.

5. The licence may be suspended or cancelled in accordance with the provisions of Section 29 of the Act and licensee or his employee shall be liable for prosecution for breach of any of the conditions of the licence, under the provisions of the Act or the rules and orders thereunder.

6. The licence shall continue in force till the.....

7. The sale of liquor is restricted to persons supplied with meals or refreshment prepared and served for consumption in the premises only.

8. The opening and closing hours shall be from 9.00 a.m. to 12-00 midnight

Office of the Deputy Commissioner District (in case of grant of licence)/Office of the Deputy Commissioner of Excise District (in case of renewal of licence)

[Deputy Commissioner District

(in case of grant of licence)/Deputy
Commissioner of Excise District (in
case of renewal of licence) ”

Date.....”

12. The Rules, 1968 do not recognize any independent category of “tourism CL-9 licence” or a licence issued under a tourism quota.

13. The CL-9 licence is granted by the Deputy Commissioner authorizing the sale of Indian Liquor, Foreign liquor or both, to be consumed on the licensed premises, combined with meals and refreshments served in a refreshment room, restaurant or bar. Thus, the nature of the licence is determined by the activity permitted under the Rules, namely a sale of liquor for consumption in the licensed premises along with meals and refreshment. The record discloses that the sanction was accorded for grant of a CL-9 licence in favour of the original licensee – Sri G. Yoginarayana Gowda for the excise year 1998-1999. The sanction order records that the Excise Inspector had reported the proposed establishment to be suitable for running a bar, and that the Tourism Department had accorded approval for opening the hotel project, wherein a restaurant had already been established for the benefit of tourists. Though the approval granted by the Tourism Department undoubtedly constituted one of the conditions for grant of CL-9 licence, however, the licence itself was granted under Rule 5 of the

Rules, 1968, as a CL-9 licence, and not as a distinct “tourism hotel licence”. The statutory Rules do not create a separate category of CL-9 licence exclusively for tourism projects. The CL-9 licence granted continued to be from the Act and the Rules framed there under. Admittedly, respondent No.1 continues to run a hotel and restaurant. The essential character of the establishment for which the CL-9 licence was granted has, therefore, not undergone any change. The only change brought about is the relocation of the licensed premises.

14. The question therefore is whether such relocation is permissible under the statutory scheme.

15. Rule 23 of the Rules, 1967 reads thus :

“23. Shifting of shops.—Subject to the restrictions specified in Rule 5, the Deputy Commissioner may permit a licensee to shift the location of his shop from one place to another within the limits of a Grama Panchayat or within the Municipal Area or City Municipal Corporation on payment of a fee equivalent to fifty per cent of the licence fee charged on the licence in respect of such shop:

Provided that subject to Rule 5, in case of CL-2 and CL-9 licences, the Deputy Commissioner may permit a licensee to shift the location of his shop.-

- (a) within the limits of Municipal Area/Town Panchayat Area or City Municipal Corporation;

- (b) from category (a), (b), (c) and (d) areas to category (e) area of item 2 5 [and item 9] of sub-rule (1) of Rule 8 of the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968 within the District;
- (c) from one category (e) area to another category (e) area of item 2 and item 9 of sub-rule (1) of Rule 8 of the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968 within the District:

Provided further that the following exemptions or relaxations shall be granted as a one-time measure during the period commencing from 27th day of June, 2017 and ending on 31st day of December, 2017 to those affected licences, and restricted to renewal of licences for the Excise year 2017-18, which are to be shifted in compliance with the judgment of the Hon'ble Supreme Court in Civil Appeal Nos.12164 to 12166 of 2016 (Arising out of SLP (C) Nos.14911 to 14913 of 2013) and Civil Appeal No.12170 of 2016, dated 15-12-2016.—

- (i) the fee prescribed for shifting of licence is reduced by 50% to the aggrieved licensees to shift the affected licence.
- (ii) the maximum quota fixed as per Rule 12 of the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968, is relaxed in respect of shifting of affected CL-2 (Retail Shop) licences.
- (iii) the restrictions specified in the first proviso to this rule are relaxed and the Deputy Commissioners of Excise are empowered to pass shifting orders in respect of affected licences within the jurisdiction of the concerned district.

Provided also that subject to Rule 5, in case of CL-11 (C) licence, the Deputy Commissioner of Excise may permit the licensee to shift the location of his shop.-

- (i) from the limits of one Grama Panchayat to the limits of another Grama Panchayat within the district, in respect of 463 CL-11 (C) licences sanctioned to the Mysore Sales International Limited (MSIL) (A Government of Karnataka Undertaking) vide Government Order No. FD/07/EFL/2008, dated 3-7-2009; and

- (ii) from the limits of one Grama Panchayat to the limits of another Grama Panchayat within the same Legislative Assembly constituency, in respect of additional 900 CL-11 (C) licences sanctioned to Mysore Sales International Limited (MSIL) (A Government of Karnataka Undertaking) vide Government Order No. FD/15/EFL/2015, dated 23-9-2016."

16. The aforesaid Rule specifically deals with the shifting of shops. It provides that, subject to the restrictions specified in Rule 5, the Deputy Commissioner may permit a licensee to shift the location of his shop from one place to another within the limits of a Grama Panchayat, Municipal Area or City Municipal Corporation on payment of the prescribed fee. The expression 'shop' is defined under Rule 3 (4) of the Rules, 1967 to mean "the licensed premises where liquor is sold". Thus, the statutory scheme recognizes the licensed premises as a place of business authorized under the licence. Rule 23 itself contemplates alteration of the licensed premises by empowering the competent authority to permit shifting of the shop. The legislative intent is, therefore, clear that the location specified in the licence is not immutable, but is capable of being altered with the permission of the competent authority.

17. It is the appellants' contention that since the licence was granted pursuant to the Scheme, respondent No.1 could not have

shifted the licensed premises to a place which was not a recognized tourist destination. We are unable to accept the said contention. The Tourism Department's approval furnished the basis for initial grant of the licence. However, neither the Act nor the Rules, 1968 nor the Rules, 1967 nor the conditions incorporated in CL-9 licence prescribe that the licence shall stand confined permanently to the original tourism project or that it shall become liable to cancellation if the licensed premises are shifted with the permission of the competent authority. The statutory power conferred under Rule 23 cannot be curtailed by a circular by implication unless such restriction is incorporated under the Act, the Rules or the conditions of the licence. The Act itself provides a complete code regarding the suspension, cancellation and withdrawal of licences.

18. Section 29 of the Act empowers the competent authority to cancel or suspend a licence in the circumstances (a) if any duty or fee payable by the holder thereof is not duly paid; or (b) in the event of any breach of the holder thereof, or by any of his servants or by one acting on his behalf with his express or implied permission, of any of the terms and conditions thereof; or (c) if the holder thereof or any of his servants

or any one acting on his behalf with his express or implied permission, is convicted of any offence under this Act; or (d) if the holder thereof is convicted of any cognizable and non-bailable offence or of any offence under the Dangerous Drugs Act, 1930 or under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, or under the Trade and Merchandise Marks Act, 1958, or under Sections 481, 482, 483, 484, 485, 486, 487, 488 or 489 of the Indian Penal Code or of any offence punishable under Section 112 or 114 of the Customs Act, 1962; or (e) if the conditions of the licence or permit provide for such cancellation or suspension at will. Likewise, Section 30 empowers the competent authority to withdraw a licence, subject to the grounds specified therein. The power to suspend, cancel or withdraw is not unbridled, but is circumscribed by the contingencies expressly provided under Sections 29 and 30 of the Act. It necessarily follows that a licence granted under the Act cannot be suspended, cancelled or withdrawn on a ground *de hors* the statute, the Rules or the conditions incorporated in the licence. Therefore, once the competent authority in exercise of statutory jurisdiction under Rule 23 of the Rules, 1967 permitted respondent No.1 to shift the licensed premises, and such permission is not shown to be contrary to any express statutory provision or conditions of the

licence, the learned Single Judge was right in interfering with the order passed by the Tribunal.

19. We find no error in the impugned order warranting any interference and the Writ Appeal is accordingly dismissed. The pending applications also stand disposed of.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(K.S. HEMALEKHA)
JUDGE**

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