



IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL
THE HON'BLE CHIEF JUSTICE MR. MANOJ KUMAR GUPTA
AND

THE HON'BLE JUSTICE MR. SUBHASH UPADHYAY

Writ Petition (M/B) No.349 of 2026

7th July, 2026

Deepak Kumar Thapa

-----Petitioner

Versus

State of Uttarakhand and Others

----Respondents

Presence:-

Mr. Sandeep Kothari, learned counsel for the petitioner.

Mr. Rajiv Singh Bisht, learned Deputy Advocate General for the State of Uttarakhand.

Mr. Shobhit Saharia and Mr. Tanmay Tiwari, learned counsel for respondent no.5.

JUDGMENT: (per Mr. Manoj Kumar Gupta C. J.)

1. Heard learned counsel for the parties.
2. The present writ petition under Article 226 of the Constitution of India has been filed for the following relief:

*"A. Issue a writ, order or direction in the nature of certiorari for quashing Clause 46 of the General Instructions dated 3rd of February 2026 ultravires the powers vested by the Excise policy dated 5th of March 2025, the provisions for opening the sub shops for the financial year 2026-27 and 2027-28 has been made. The aforesaid instructions are contrary to the provisions contained in excise policy dated 5th of March 2025 and without there being any policy decision taken by the State Government in this regard under the garb of General Instructions dated 3rd of February 2026, such a provision has been made.. (**Annexure No.3 to this writ petition**), **Page No.76.***

B. Issue a writ, order or direction in the nature of certiorari be quashing the letter of allotment dated 31st of March 2026 issued in favour of private respondent No.5, whereby the Sub Shop



*from Miyawala to Jogiwala Chowk of Indian Made Foreign Liquor Shop, Mohkampur has been allotted contrary to the provisions of Excise Policy dated 05.03.2025. (**Annexure No.7 to this writ petition**), **Page No.101.**"*

3. On 06.05.2026, the following order was passed:

"1. Mr. Sandeep Kothari, learned counsel for the petitioner.

2. Mr. Ganesh Kandpal, learned Additional Advocate General for the State / respondent Nos. 1 to 4.

3. Mr. B.S. Adhikari, learned counsel for respondent No. 5.

4. The submission of leaned counsel for the petitioner is that under Excise Policy dated 05.03.2025 there was specific prohibition for opening of any new sub-shop during F.Y. 2025-26, but now under the garb of General Instructions issued by Excise Commissioner on 03.02.2026, particularly Clause 46 thereof, the respondents have approved a new sub-shop at Mohkampur at a site where no such sub-shop was ever in existence in the past.

5. Learned counsel appearing on behalf of respondent Nos. 1 to 4 seeks time to obtain specific instructions as to whether sub-shop sanctioned by District Excise Officer, Dehradun vide order dated 31.03.2026 was in operation during the Excise Year 2024-25, and also whether the sub-shop now approved at Mohkampur is for the same site or a different one.

6. List on 14.05.2026, as fresh."

4. By another order passed on 19.05.2026, we directed the Secretary Excise, Government of Uttarakhand to file his affidavit and clarify the stand of the State Government in respect of the prohibition contained in Clause 3.14 of the Excise Policy. Pursuant thereto, the Principal Secretary, Excise Department filed his affidavit



wherein he supported the Excise Policy and took the stand that the permission for operating subshop of foreign liquor at Mohkampur was not in conformity with Clause 3.14 of the Excise Policy.

5. Since we noticed that there was conflict in the stand taken by the State Government and the Excise Commissioner, therefore, in terms of Clause 37 of the Excise Policy, we referred the matter for decision by the Committee headed by the Chief Secretary as contemplated under the said clause.

6. Learned Deputy Advocate General has placed on record the instructions received from the Principal Secretary along with the decision dated 12.06.2026 taken in the meeting of the Committee chaired by the Chief Secretary. The Member-Secretary of the said Committee was the same Excise Commissioner who had earlier taken a stand different from that taken by the Principal Secretary Excise in his affidavit. The Committee has concurred with the stand of the State Government and has arrived at the following conclusion:

“7. समिति द्वारा प्रकरण के तथ्यों पर विचार विमर्श किया गया। विचारोपरान्त प्रकरण में समिति द्वारा निम्नवत बिन्दुओं के आलोक में मतस्थिर किया गया कि:-

(i) आबकारी आयुक्त, उत्तराखण्ड द्वारा अपने आदेश दिनांक 20.03.2026 में उत्तराखण्ड त्रिवर्षीय आबकारी नीति 2025-2028 के नियम 3.14 के क्रम में राजस्व हित में जनपद देहरादून के अन्तर्गत वित्तीय वर्ष 2024-25 हेतु संचालित देशी/विदेशी मदिरा की उपदुकानों को वित्तीय वर्ष 2026-27 व 2027-28 में संचालित किये जाने हेतु अनुमोदन प्रदान किया गया है इस प्रकार आबकारी आयुक्त, द्वारा प्रश्नगत विदेशी मदिरा दुकान मोहकमपुर की उपदुकान को न नयी जगह में संचालन के सम्बन्ध में और न ही नये स्थान पर नयी उपदुकान खोले जाने के सम्बन्ध में कोई अनुमति दी गयी है। इस प्रकार



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आबकारी आयुक्त द्वारा प्रश्नगत उपदुकान नवीन स्थान पर संचालित करने के सम्बन्ध में आदेश जारी नहीं किया गया है।

(ii) आबकारी आयुक्त के पत्र सं० 22958 दिनांक 03 फरवरी, 2026 द्वारा वर्ष 2026-28 व 2027-28 की अवधि हेतु सी०एल०-5सी (देशी शराब व बीयर) एवं एफ०एल०-5डी (विदेशी मदिरा व बीयर) की फुटकर दुकानों के व्यवस्थापन एवं अन्य अनुज्ञापनों के सम्बन्ध में जारी सामान्य निर्देश के बिन्दु संख्या-46 में उल्लेख है कि वित्तीय वर्ष 2024-25 में मदिरा की दुकानें जिनकी उपदुकानें स्वीकृत की गयी थी, आबकारी राजस्व हित में उन उपदुकानों को आगामी वित्तीय वर्ष 2026-27 व 2027-28 में आबकारी आयुक्त की अनुमति के पश्चात् आगामी 02 वर्षों हेतु एक साथ अनुज्ञापन शुल्क जमा कराने पर संचालित किया जा सकेगा।”

यह निर्देश बिन्दु 46 आबकारी नीति 2025-28 में निहित नियम 3.14 के अनुसार नहीं है। इस सम्बन्ध में दिशा-निर्देश संबंधी पत्र दिनांक 03 फरवरी, 2026 के बिन्दु संख्या-46 को नियम 3.14 (वित्तीय वर्ष 2025-26 में उपदुकानें नवसृजित नहीं की जायेगी किन्तु विगत वर्ष 2024-25 में सुचारु रूप से संचालित उपदुकानों को आगामी वित्तीय वर्ष 2025-26 में संचालन का अनुमोदन आबकारी आयुक्त से व्यवस्थापन की प्रक्रिया से पूर्व ही प्राप्त करना होगा। वित्तीय व 2025-26 में जनसंवेदनाओं एवं कानून व्यवस्था के दृष्टिगत आबकारी आयुक्त वित्तीय वर्ष 2024-25 में संचालित किसी भी उपदुकान को पूर्ण रूप से बंद कर सकेंगे, इसके लिए अनुज्ञापी द्वारा राजस्व वापसी का अनुरोध स्वीकार नहीं होगा) के अनुसार संशोधन किया जाना उचित होगा।

अतः समग्र प्रास्थिति को दृष्टिगत समिति द्वारा यह मत / सहमति प्रदान की गयी है कि विदेशी मदिरा दुकान मोहकमपुर की उपदुकान के सम्बन्ध में आबकारी आयुक्त के स्तर से कोई आदेश निर्गत नहीं हुआ है अपितु उत्तराखण्ड त्रिवर्षीय आबकारी नीति 2025-2028 के नियम 3.14 के क्रम में राजस्व हित में जनपद देहरादून के अन्तर्गत संचालित उपदुकानों के सम्बन्ध में आदेश दिनांक 20.03.2026 निर्गत किया गया है। जहां तक आबकारी आयुक्त के पत्र दिनांक 03 फरवरी, 2026 के माध्यम से निर्गत दिशा-निर्देशों के बिन्दु संख्या-46 का प्रश्न है, तो उक्त बिन्दु आबकारी नीति में निहित नियम 3.14 के अनुसार नहीं है। अतः आबकारी आयुक्त द्वारा उक्त को नियमानुसार संशोधित किया जाए। साथ ही आबकारी नीति में निहित प्राविधानों के अधीन सक्षम प्राधिकारी द्वारा प्रश्नगत उपदुकान को पूर्णतः बंद किये जाने की कार्यवाही सुनिश्चित की जाए।”

7. Learned Deputy Advocate General has also placed for our perusal a circular letter dated 06.07.2026 issued by Excise Commissioner addressed to All District Magistrates / Licensing Authorities, Uttarakhand in which it has been clarified that only such subshops which were duly approved and were operational in the financial years 2024-25 and 2025-26 would be entitled to approval / operate in financial years 2026-27 and 2027-28. The said



circular letter has been issued in pursuance of the decision taken by the Committee in its meeting dated 12.06.2026.

8. Learned counsel for the petitioner, who has initially raised objection that the shop in question is still in operation, after seeking further instructions, states that the shop has now been closed.

9. In view of the fact that the Committee envisaged under Clause 37 of the Excise Policy has already taken decision in the matter and the shop in question has been closed, therefore, nothing further survives for consideration in the instant petition. The petition stands disposed of accordingly.

10. Pending application, if any, also stands disposed of.

11. Shri Shobhit Saharia, learned counsel appearing for the private respondent tried to contend that the decision of the Committee is illegal but we are not inclined to examine the said issue in the present writ petition and reserve liberty to the private respondent to challenge the decision of the Committee in independent proceedings, if so advised.

(MANOJ KUMAR GUPTA, C. J.)

(SUBHASH UPADHYAY, J.)

Dated: 07.07.2026

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