05.10.2021.
Ct. No.13
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W.P.A. No. 16824 of 2021

Somenath Dutta & Anr.
Versus
The State of West Bengal & Ors.

(Through Video Conference)

Mr. Krishnendu Sarkar,
Ms. Meghla Das
...for the petitioners.

Mr. Anirban Ray, ld. G.P.,
Mr. Raja Saha,
Mr. Debasish Ghosh,
..for the State.

The principal subject matter of this application is a notification dated 27th December, 2019 whereby Rule 4(Q) of the West Bengal Excise (Selection of Sites and Grant of License for Retail Sale of liquor and other Intoxicants) Rules, 2003 was revoked. The said Rule was introduced in the year 2019. By the reason of such Rule, a licence for a limited period was granted to sell on a retail basis all categories of liquor except Tari and Pachwai. It is submitted that the said licence which the petitioners were enjoying, was initially suspended by reason of a notification of the Election Commission of India.

Upon reconsideration after the expiry of the E.C.I. notification at the behest of the orders of this Court, the Excise Authorities in Bengal have felt the need to revoke any rights under 4(Q) of the aforesaid Rules.

Mr. Sarkar, learned advocate appearing for the petitioners submits that revocation of an existing licence unilaterally by the State and that too while considering revival of an existing licence should have been informed with reasons.

Reliance is placed on the decision of the Supreme Court in the case of **Internet and Mobile Association of India vs. Reserve Bank of India** reported in ***(2020) 10 SCC 274.*** By reference to paragraph 174 of the said judgment, Mr. Sarkar would argue that there may be a presumption of collateral purpose when no reasons are provided while withdrawing the circular.

This Court is of the view that the facts and circumstances of the case **Internet Mobile Association of India (supra)** are quite different from that of the power exercised by the State under the aforesaid Bengal Excise Rules in the impugned notification.

It is now a well-settled principle of Administrative Law that there is a presumption of reasons behind a policy decision either to introduce a right or to revoke the same, particularly, in the context of goods that are monitored by the Excise Authority. Such presumption continues until the contrary is demonstrated. While a benefit derived on the basis of a policy decision is revoked, no prejudice can be claimed as no vested right as accrued to the petitioners in the first place.

This Court sees that the revocation of 4(Q) is neither arbitrary nor capricious. There are reasons apparent, inter alia, is that, indiscriminate sale of all categories of liquor is sought to be controlled and regulated by the State for the health and well being of the people.

With the aforesaid object, the impugned circulation cannot be faulted. The writ petition must, therefore, fail and is thereby dismissed.

However, since the writ petitioners have been at one point of time granted a benefit under 4(Q) albeit non existent today, they shall be entitled to apply for off-shops at their existing cites or otherwise, upon full compliance with all required formalities afresh. If such application is made within a period of 15 days from date, the Authorities shall consider and dispose of the same in accordance with the applicable rules and law within a period of three months thereafter. If the petitioners apply for adjustment of the licence fees already deposited, the respondents shall adjust the same against the new applications.

There shall be no order as to costs.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(*Rajasekhar Mantha, J.*)