

WPA 18726 OF 2019

Supriya Kamila and Anr.

Vs.

State of West Bengal and Ors.

(Through Video Conference)

Mr. Mukteshwar Maity, Advocate
..for the Petitioner

Mr. Krishnendu Sarkar,
Mr. Abhijit Mondal,
Ms. Meghla Das, Advocates
..for the respondent No. 10

1. The petitioners being resident of village Debichak are aggrieved with the grant of liquor license to the private respondent in the name of “Sri Ram Restaurant”. Their allegation is that the license for selling out the liquor/foreign liquor has been granted without following the due procedure and that the said license near schools, health centres, temples, etc. cannot be granted. Earlier, petitioners had filed the Writ Petition No. 3510 (W) of 2019 which was disposed of by this Court by order dated 29th March, 2019 with a direction to the Collector-cum-Excise Officer, South 24 Parganas to look into the grievance of those who had filed a mass-petition and take a suitable decision in accordance with law. Thereafter, the Additional District Magistrate and Collector of Excise, South 24 Parganas took up the proceedings and after hearing the concerned parties, had

passed the order dated 30th July, 2019 rejecting the objection of the petitioners. This order is subject matter of challenge in the present petition.

2. Submission of learned Counsel for the petitioner is that the liquor license has wrongly been granted near the educational institute, health centre and temple which is causing nuisance and that the grant of license is in violation of Section 22 of the Bengal Excise Act, 1909 (for short, 'the Act').

3. Opposing the prayer, submission of learned Counsel for the private respondent is that after due enquiry, the Collector of Excise has passed the order dated 30th July, 2019, wherein none of the allegations of the petitioners have been found to be true and that Section 22 of the Act is not attracted in the matter and that against the impugned order, petitioners have remedy of filing the appeal.

4. Having heard the learned Counsel for the parties and on perusal of the record, it is noticed that Section 22 of the Act relates to grant of exclusive privilege of manufacture and sale of country liquor or intoxicating drugs, whereas in the present case, it has been pointed out by learned Counsel for the private respondent that the license has been granted for foreign liquor.

5. It is also noticed that in pursuance to the direction

issued in WP 3510 (W) of 2019 proceedings were taken up by the Collector of Excise wherein, the petitioners had duly participated. In the course of the proceedings, the Collector of Excise had ordered the D.E.C., Sagar Range to measure the distance of the educational institution, religious places of worship, hospitals, situated in the proximity of shop and in the report so submitted, it was found that no such place was situated within 1,000 feet of the shop and it was further found that shop was not restricted under Rule 8(1) of the Notification No. 800-Ex. dated 29.07.2003. The B.D.O., Pathar Pratima had submitted the report stating that there was no report of any incident of disturbing public peace and O.C., Pathar Pratima P.S. had submitted the report that there was no incident of law and order violation in the area. The sketch map from the Excise Authority was called and the Superintendent of Excise, Sundarban Excise District was directed to conduct an enquiry personally regarding the proximity of the residential houses in the Debichak village from the restaurant and after considering the report, it was found that the houses of the petitioners were situated beyond one k.m. from the shop. In this background, the objections have been rejected.

6. In view of the conclusions drawn by the District Magistrate on the basis of the reports submitted before

him, we do not find any error in the order dated 30th July, 2019. Even otherwise factual controversies cannot be gone into in this petition for which the petitioner has remedy of filing an appeal under Rule 3 of the Bengal Excise Rules. Hence, we do not find any reason to interfere in this public interest petition which is accordingly dismissed.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)