

Item No.24
27.09.2024
Court. No. 9
GB

W.P.A. 10539 of 2023

Pallab Chakraborty
Vs.
The State of West Bengal & Ors.

Mr. Nirmalya Biswas,
Mr. Anirban Datta

...for the Petitioner.

Mrs. Rupsha Chakraborty,
Ms. Amrita Tewari

...for the State.

1. Affidavit-of-service filed in Court today, is taken on record.
2. The petitioner has challenged an order which is apparently a communication of a decision of the Excise Commissioner, rejecting the claim of the petitioner for shifting the site of Tridhara Foreign Liquor on shop from its existing gram panchayat at Tatla-II to a new site at Rautari gram panchayat.
3. The petitioner submits that apart from Rule 8 of the West Bengal Excise (Selection of New Sites for Grant of Licence for Retail Sale of Liquor and Certain other Intoxicant) Rules 2003, there are no provisions on the basis of which either restrictions could be imposed or the licence could be denied. Shifting was permitted by law.
4. The Court is unable to ascertain the exact reason for rejection of such prayer, as no such reason has been provided.

5. Under such circumstances, the order dated December 12, 2022 is set aside only on the ground of the same being unreasoned. An unreasoned order is violative of Article 14 of the Constitution of India as it smacks of arbitrariness. The petitioner has already made a representation apart from having made an application earlier, for shifting of the site. The application of the petitioner shall be heard de novo along with the writ petitioner and the annexures thereto, treating those to be a part of the application.
6. The Excise Commissioner shall pass a reasoned order upon hearing the petitioner within a period of two months from date.
7. It is made clear that the order to be passed shall provide reasons. If the authority is of the view that rules and regulations do not permit such shifting of the FL on shop to a new site, the details of the same shall be provided in the order. If the shifting is otherwise permissible, then necessary orders will be passed, upon the authority making usual inspection and enquiry.
8. Accordingly, the writ petition is disposed of.
9. However, there will be no order as to costs.
10. Parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)