

**IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction
Appellate Side**

WPA 1021 of 2024

**SUNCITY TIE UP PRIVATE LIMITED
Versus
THE STATE OF WEST BENGAL AND ORS**

Mr. Abhijeet Pandey, Adv.
Mr. Bapi Sarkar, Adv.
Mr. Anujit Mukherjee, Adv.

...for the petitioner

Mr. Subir Kumar Saha, Ld. AGP
Mrs. Bedashruti Bose, Adv.
Ms. Rima Sarkar, Adv.

...for the State

Mr. Abhijeet Pandey, learned Counsel, is appearing for the petitioner and Mr. Subir Kumar Saha, learned Counsel, is appearing for the State.

The petitioner has filed the present writ application against the order dated 27th February, 2024 wherein the liquor licence of the petitioner was suspended.

The authorities have inspected the godown at the City Center opposite to Indiana Blues Restaurant-cum-Bar and seized several liquor bottles. After the seizure, the concerned authority has issued a show cause notice to the petitioner on 12th February, 2024. On receipt of the show cause notice dated 12th February, 2024 no reply was filed but the petitioner had appeared in person before the authority on 27th

February, 2024 and prayed for time to file reply. The learned Additional District Magistrate (G) and Collector of Exercise, Darjelling had adjourned the matter with the direction that the licence issued in favour of agency stands suspended and it shall not be renewed until the time the case is finally settled.

Counsel for the petitioner submits that the case has been initiated on the basis of seizure made in the godown at City Center and the case has been initiated and as per the provisions of Section 42(b) of the Bengal Excise Act, 1909, licence cannot be suspended unless and until the holder is convicted. He submits that in the present case, the criminal case initiated against the petitioner and two directors is still pending and during the pendency of the criminal case, the authority has suspended the licence.

Per contra, learned Counsel for the State respondent submits that the writ application filed by the petitioner is not maintainable as if the petitioner is aggrieved with the impugned order, there is a provision of appeal under Rule 3 of Bengal Excise Act but the petitioner instead of filing the appeal, has filed the instant writ application.

Counsel for the State has also drawn the attention of the test report of Jonny Walker Black Label Whisky wherein it is found that sample of Jonny Walker Whisky in question did not meet necessary reference standard in sensory analysis.

Learned Counsel for the State also relied upon the order passed by Co-ordinate Bench of this Court in WPA/645/2023 and submitted that this Court in another similar matter this case held that the petitioner has to challenge the order within the statutory appellate authority as provided under the law.

Learned Counsel for the State prays for rejection of the writ application.

Heard learned Counsel for the respective parties, Perused the materials on record.

Admittedly, the authorities have seized the some liquor bottles from the godowns and after the seizure a show cause notice was issued to the petitioner.

Though the petitioner has not filed any reply to the show cause notice but it had appeared before the authority and had prayed for time to file reply. The concerned authority considering the submission of the petitioner has granted time and adjourned the hearing but has suspended the licence and also directed not to renew until the time, the case is finally settled.

The petitioner has challenged the impugned order dated 27th February, 2024. As per the Rule 3 of the Consolidated Rules framed under section 85 of the Bengal Excise Act, 1909 provided an appeal from an order of an officer to the Controller.

Since, the petitioner has not preferred an appeal as provided under Rule 2 of the Consolidated Rules made under Section 85 of the Bengal Excise Act, 1909, the writ petition being WPA/1021/2024 is disposed of by giving liberty to the petitioner to prefer an appeal against the impugned order dated 27th February, 2024 within two weeks from the date of this order.

It is made clear that if the petitioner prefers an appeal within two weeks from date, the Controller shall decide the said appeal within a period of three weeks from the date of receipt of the appeal, if any.

WPA/1021/20214 is disposed of.

(Krishna Rao, J.)