

22-07-2025
Item No.12
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction
Appellate Side

WPA No.4868 of 2025
Kamal Krishna Chowdhury

-vs-

The State of West Bengal & Ors.
with
CAN No.1 of 2025

Mr. Saptansu Basu, sr. adv.
Mr. Sayan Sinha, adv.
Mr. Kausheyo Roy, adv. ...for the petitioner

Mr. Tanoy Chakraborty, adv. ...for the State

Mr. Alak Kumar Ghosh, adv.
Ms. Tanusree Dasgupta, adv. ...for KMC

Mr. Suman Sengupta, adv.
Mr. Rohit Kumar Yadav, adv. ...for the respondents
nos.13-15 & 19-21

1. The petitioner was issued a supplementary license for retail sale of country spirit and coloured and/or flavoured sprit for consumption off and/or on the site of an existing *tari* shop at 5, Bhukailash Road, Kolkata – 23. Despite having a valid license, the petitioner was not in a position to run the business.
2. He approached this Court by filing a writ petition being WPA No.12855 of 2024 which stood disposed of by the Court on December 16, 2024 by observing that if a license has been granted, it is the duty of the police to give protection to a business for being lawfully carried out. If the local people are creating any problem for reasons,

then the police would apply before the licensing authority who has granted the permission to carry on the business. The business cannot be shut down at the whims of a group or a cluster of persons. The police were directed to extend cooperation.

3. It appears that thereafter the police filed a complaint before the Collector of Excise on February 10, 2025 with a prayer for revocation of the license of the petitioner. In the said complaint it was mentioned that the subject shop room has been selling *tari* for the last 60/70 years. In the year 2016 the owner of the *tari* selling shop obtained an additional license for selling country spirit but he was unable to run the country spirit shop since 2016-17 due to the protest/objection of the local people. The police raised various issues including the social and the moral concern of the people of the area, public safety issues, economic and health impact and prayed before the authority to revoke the license.
4. Relying on the aforesaid prayer, the impugned notice dated February 12, 2025 has been issued by the Superintendent of Excise fixing a date of hearing for considering the prayer for revocation of the license for selling country spirit from the existing *tari* shop.
5. Learned senior counsel representing the petitioner submits that there is no provision in law for revocation of the license if the business is run in accordance with the terms and conditions attached to the license.
6. In support of this submission, reliance has been placed on the judgment of this Court in the case of ***Asutosh Ghosh v. State of West Bengal &***

Ors. reported in **2014 SCC OnLine Cal 3246**

wherein the Court was considering the issue as to whether the Excise Collector, based on the complaints, could have reviewed the order for grant of license. The Court held in the negative.

7. It was specifically held in the aforementioned judgment that under the law, the Collector does not have inherent power to review. The licensing authority has a limited power of cancellation of license.
8. Prayer has been made to set aside the impugned notice of revocation of license.
9. Learned counsel representing some of the private respondents being respondents no.13-15 and 19-21 submits, upon instruction that, the petitioner does not have a vested right to carry on the business of liquor. The business can be run only on the basis of the license issued. The petitioner does not have a valid license to run the business currently. It has further been submitted that there are several practical problems in running the said liquor business from the subject site.
10. It is also been submitted that the private respondents have filed an appeal assailing the order passed on March 27, 2025 in WPA No.12855 of 2024 being MAT No.474 of 2025 (Khidderpore Jubilee Garden and Ors. v. State of West Bengal & Ors.). The same is pending consideration.
11. Learned counsel for the State submits that the proceeding initiated by the Superintendent of Excise is yet to be over. The same is at the stage of consideration. Final order has not yet been passed.

12. It has been brought to the notice of this Court that the petitioner is unable to run the business from 2016 onwards. It has also been submitted that even though there is an order passed by this Court directing the police to grant protection so that the petitioner can run the business in accordance with the license granted, but it is not always possible for the police to provide protection. The crowd in front of the subject shop room, as reflected in the photograph attached to the writ petition, depicts that it is not possible to maintain law and order in the area if the petitioner runs his business there.
13. Upon hearing the respective submissions advanced on behalf of all the parties and on perusal of the documents placed before this Court, it appears that license which was granted in favour of the petitioner expired in March 2025 and renewal is pending. In view of the objection raised, the authority is yet to renew the license.
14. Admittedly, under the Bengal Excise Act, 1909 and the Rules framed thereunder, there is no provision for revocation of a license relying on a complaint lodged by any person or individual. The authority can always insert condition(s) in accordance with law for regulating the business so that the law and order problem does not arise, and if it arises, the same can be taken care of. The authority cannot and ought not to impose extraneous conditions with the intention of not renewing the license.
15. When the license was valid, the proceeding to revoke the same was initiated. As the license is valid for a specified period of time, accordingly, the question of its revocation, when the license is

not in force, does not arise at all.

16. The authority is therefore directed to consider as to whether or not the license can be renewed in favour of the petitioner.
17. The respondent authority shall take a decision on the prayer of the petitioner for renewal of licenses in respect of *tari* and country spirit and coloured and/or flavoured spirit strictly in accordance with law at the earliest but positively within a period of sixty days from the date of communication of this order. An opportunity of hearing shall be given to all the necessary parties prior to passing a final order. Reasoned order shall be passed and communicated to the petitioner immediately thereafter.
18. It will be open for the petitioner to rely upon the provisions of law and all judicial precedents in support of his prayer for renewal of license at the time of hearing.
19. The writ petition stands thus disposed of.
20. The connected application – CAN No.1 of 2025 – is also disposed of.
21. All parties are to act on the server copy of this order duly downloaded from the official website of this court.
22. Certified copy of this order, if applied for, shall be made available to the parties.

[Amrita Sinha, J]

