

25th Sept.,2025
Item no.D/L 09
Court No. 14
Pradip, A.R.(Ct.)

In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

Case No. **WPA 23337 of 2025**

In the matter of :
Rajib Bose *.... Petitioner*
VS.
The State of West Bengal & Ors. *....Respondents*

For the Petitioner:
Mr. Sounak Bhattacharyya
Mr. Satyam Mukherjee
Mr. Purnendu Shekhar Ghosh
Mr. Saibal Rakshit *....Advocates*

For the State:
Mr. Rajarshi Basu
Mr. Parikshit Goswami *....Advocates*

For the Respondent nos. 9&10:
Mr. Debanik Banerjee
Mr. Steven S. Biswas
Mr. Huzaifa Shahid *....Advocates*

1. Affidavit of service filed in Court today is taken on record.
2. The petitioner is aggrieved by the notice dated 17th September, 2025 issued by the Additional District Magistrate (General) & Collector of Excise, North 24 Parganas (Rural) Excise District directing the petitioner to close the restaurant cum bar until further orders in public interest for preservation of public peace.
3. The petitioner has been given liberty to apply for shifting of the licensed premises to any suitable restriction free site as per the extant rules.

4. The impugned notice mentions that due to severe local agitation as well as apprehension of breach of tranquility in the area due to opening of the restaurant cum bar a report was given by the Superintendent of Police, Barasat Police District relying on which the direction to close the shop and relocate the same has been passed.
5. It has been submitted that the said notice is contrary to the provisions of the Bengal Excise Act, 1909. Section 26 of the said Act has been placed which prescribes the power of the authority to close shops temporarily.
6. It has been mentioned that there is no period mentioned in the impugned notice for closure of the shop. The same has been closed until further orders, that is, for an indefinite period of time which is contrary to Section 26 which mentions about closure for a prescribed period of time.
7. Section 42 of the said Act has also been relied upon which prescribes the power of the authority to cancel or suspend the license, permit or pass. It has been submitted that none of the conditions mentioned in the said Section is attracted relying on which cancellation or suspension of the license can be directed.
8. It has been contended that it is only because of the vested interest of the private respondents that the impugned order has been passed.
9. Reference has been made to the order passed in a writ petition filed by the petitioner by a coordinate Bench of this Court on 9th September, 2025 in WPA 20789 of 2025 wherein the petitioner approached the Court aggrieved by

the circumstances created in and around the restaurant cum bar hindering running of his business peacefully.

10. The Court took note of the fact that a civil suit was filed against the private respondents and despite ad interim order passed by the Civil Court, the petitioner is unable to carry on his business. In spite of informing the police, no steps were being taken.
11. The Court took note of the report submitted by the learned advocate representing the State. The Court noticed the representation made by the villagers. The Court also noted that the petitioner is in possession and the police did not find that there has been any violation of law and order.
12. The Court directed the police to deal with any inconvenience faced by the petitioner while carrying on his trade or business.
13. It has been submitted that after the order was passed on 9th September, 2025, the impugned order of closure has been deliberately issued on 17th September, 2025 to frustrate the direction passed by the Court.
14. Judgment delivered by the Court on 28th January, 2020 in WP 491 (W) of 2020 in the matter of Mohit Lal Ghosh Vs. The State of West Bengal has been relied upon by the petitioner in support of the submission that the authority ought to permit the petitioner to run the restaurant cum bar as the same is being operated in accordance with the license issued by the authority.

15. The procedure for selection of new site for grant of license under the West Bengal Excise (Selection of New Sites Intoxicants) Rules, 2003 has been placed in support of the submission that the authority must have made the necessary enquiries prior to issuance of license in favour of the petitioner.
16. It has been submitted that the restaurant cum bar is in operation since March, 2024 and the impugned order of closure has been passed in September, 2025.
17. Prayer has been made to set aside the impugned order of closure and shifting of the licensed premises.
18. Learned advocate representing the private respondent nos. 9 & 10 submits, upon instruction that, the private respondents are no way related and/or connected with the business of the petitioner. The private respondent no. 9 is an ex-army personnel and the private respondent no. 10 runs a grocery store.
19. Learned advocate for the private respondents submits that they would be bound to comply with any direction passed by the Court.
20. None represents the private respondent no. 11.
21. Learned advocate representing the State respondents opposes the prayer of the petitioner.
22. Instruction along with supporting documents forwarded by the Additional District Magistrate (General) & Collector of Excise, North 24 Parganas (Rural) Excise District has been placed before this Court.

23. It has been submitted that there is a huge uproar in and around the business area of the petitioner which is creating serious law and order issue which is becoming unmanageable for the police.
24. It has been submitted that the license was issued upon necessary enquiries but after the restaurant cum bar opened, the agitation started growing day by day. There have been repeated mass complaints and there is every possibility of breach of peace and tranquility in the locality.
25. It has been submitted that the respondent authority will not object if the petitioner operates the restaurant business but the bar, which is creating the problem, ought not to be permitted to be run.
26. I have heard the submissions made on behalf of all the parties and have perused the materials placed before this Court.
27. The fact that the license was issued in favour of the petitioner implies that necessary enquiries were duly made and only after being satisfied with the enquiry report(s), the license to operate the bar was issued by the authority.
28. There is no allegation of any illegality committed by the petitioner in running the liquor business.
29. Two mass complaints are forwarded with the report of the Excise Department. One is dated 5th August, 2025 which contains signatures of 194 persons and other is dated 4th October, 2024 containing signatures of 133 persons.

30. The liquor business can be run subject to necessary checks and balances to be maintained by the authority and the person running the business. The petitioner may be running the business in accordance with the license issued but it appears that there is huge local agitation which may create a situation which the police may not be able to handle.
31. On the apprehension of breach of peace and tranquility direction has been passed to close the business of the petitioner, however, as per the submission of the authority, the restaurant business will be permitted to be run.
32. The Court while passing order on 9th September, 2025 in the earlier writ petition filed by the petitioner being WPA 20789 of 2025 had already directed the police to deal with any inconvenience faced by the petitioner. It appears that even thereafter, the petitioner was not in a position to run the business peacefully. The same resulted in issuance of the order of closure and shifting.
33. The Court in the matter of Mohit Lal Ghosh (supra) noticed that a mass representation with signatures of only thirteen persons was submitted. There was an involvement of the MLA. Such is not the case here. The mass representations in the instant case contain signatures of many people.
34. If the liquor business is permitted to be run, then chances of breach of peace and tranquility cannot absolutely be ruled out.

35. For striking a balance and for maintaining peace and tranquility in the locality, the Court is not inclined to interfere with the impugned order of closure of the liquor business at this stage.
36. The respondent authorities have put a padlock on the shop of the petitioner. Let the same be opened immediately so that the petitioner can run the business of restaurant, without liquor, from the said premises.
37. The police and Excise Collector are directed to cause further enquiries to ascertain as to whether the petitioner may be permitted to run the liquor business peacefully. Opportunity of hearing may be granted to the petitioner to satisfy the authority that the liquor business can run from the said premises peacefully in terms of the license issued.
38. If it transpires that the business cannot be run peacefully, then the order of closure to run the liquor business shall be strictly followed by the parties. If there is possibility of running liquor business smoothly without interference by the agitators, then the petitioner shall be permitted to run the same in accordance with the license issued in his favour.
39. The writ petition stands disposed of.
40. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Amrita Sinha, J.)