

10.02.2025
Item No.35
gd/ssd

MAT/1843/2024
BAPI DUTTA
VS
STATE OF WEST BENGAL AND ORS.
IA NO: CAN/1/2024

Mr. Achyut Basu,
Mr. Satrajit Sinha,
Mr. Tapan Roy,
Ms. Punam Basu,
Mr. Amritansu Sengupta
..for the Appellant.

Mr. Tonoy Chakraborty
..for the State.

1. This intra court appeal by the unsuccessful writ petitioner is directed against the order dated 12th July, 2024 in WPA 4635 of 2022 and CAN 1 of 2022.

2. Though the prayer sought for in the writ petition was largely worded, essentially the challenge was to the order passed by the appellate authority rejecting the petitioners' application for granting bar-cum-restaurant licence. So far as the restaurant is concerned, it is a different matter to be regulated in the different statute but so far as the bar is concerned, the licence has to be granted in terms of the Rule which has been framed under the Bengal Excise Act, 1909.

3. The application filed by the appellant was rejected on the ground that it violates Rule 8 as notified in Notification No.800 Excise dated 29.7.2003 (as

amended) as the proposed site was in proximity to the Indian Statistical Institute.

4. Aggrieved by such order passed by the Excise Commissioner, West Bengal, the appellant filed an appeal before the Principal Secretary, Finance Department, Government of West Bengal.

5. The matter was considered in detail and the enquiry was directed to be conducted and the report was directed to be submitted and based on the said report the appeal was dismissed.

6. As could be seen from the enquiry report dated 1.12.2021, the distance between the proposed site and two gates, namely, Gate No.3 and Gate No.4 of the Indian Statistical Institute are 757 ft. and 582 ft. respectively.

7. Thus, since there is a clear embargo for selecting the said site in terms of Rule 8, the appellate authority was fully justified in confirming the order passed by the Excise Commissioner dated 15.9.2020.

8. The learned advocate for the appellant would contend that there are other bars which are running in the said locality and pleads discrimination. Assuming that the licence was granted in violation of the rules, it cannot be a ground for the appellant to plead discrimination as there cannot be equality and in any illegality.

9. In any event, there is no fundamental right vested with the appellant to carry on business of liquor.

10. Thus, if the Rules stipulate certain requirements to be complied with, they have to be strictly enforced and we find no ground to doubt the enquiry report dated 1.12.2021.

11. For the above reasons, we find that the learned Single Bench was right in dismissing the writ petition.

12. Accordingly, the appeal fails and the same is dismissed.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)