

09.03.2026
Item No.03
Court No.12
CP/Gb

MAT No.1919 of 2025
with
CAN 1 of 2025
(Appropriate orders)
with
CAN 2 of 2025
(Section 5)

Rajib Bose
Vs.
The State of West Bengal & Ors.

Mr. Soumya Majumder, Sr. Advocate
Mr. Sounak Bhattacharyya
Mr. Satyam Mukherjee
Mr. Purnendu Shekhar Ghosh
Mr. Saibal Rakshit

....for the appellant.

Mr. Rajarshi Basu
Mr. Parikshit Goswami

.....for the State.

Mr. Debanik Banerjee
Mr. Steven S. Biswas

.....for the respondent nos. 9 & 10.

CAN 2 of 2025 is an application filed under Section 5 of the Limitation Act to condone the delay of 12 days in preferring the appeal. Upon perusing the grounds stated in the said application, the court is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within time.

Accordingly, the delay of 12 days is condoned. CAN 2 of 2025 is hereby allowed.

The appeal arises out of an order dated September 25, 2025, passed by a learned Single Judge in WPA 23337 of 2025. By the order impugned, the learned Judge directed the police authorities and the Excise Collector to cause further enquiries to ascertain as to whether the appellant may be permitted to run the liquor business peacefully. Opportunity of hearing was directed to be granted to the appellant to satisfy the authority that the business could be run from the premises in terms of the licence issued. Her Lordship further went on to hold that if it transpired that the business could not be run peacefully, then the order of closure to run the liquor business shall be strictly followed by the parties. If there was a possibility of running the liquor business smoothly, without interference by the agitators, then the appellant should be permitted to run the same, in accordance with the licence issued in his favour.

Mr. Majumder, learned senior advocate for the appellant, submits that the order impugned suffers from non-application of mind, inasmuch as, Her Lordship failed to consider the provisions of the West Bengal Excise (Selection of New Sites and Grant of License for Retail Sale of Liquor and Certain Other Intoxicants) Rules, 2003, (hereinafter referred to as 'the said Rules').

He further submits that when the licence was issued in 2024, under the said Rules, all enquiries were conducted and public opinion was obtained. Only upon such clearance by the Excise collector, the documents were forwarded to the State Government and the State Government referred back the documents upon being satisfied that the licence could be granted to the appellant to run the restaurant-cum-bar from the said premises.

Under such circumstances, the question of local agitation or displeasure of the local people should not be a ground for temporary closure of the bar. It is submitted that there is no shop from where liquor is being sold. The appellant runs a bar-cum-restaurant and the appellant has been given a bar licence.

Mr. Basu, learned advocate for the State, submits that Section 26 of the Bengal Excise Act, 1909 permits the District Magistrate or the Sub-Divisional Magistrate or the Chief Metropolitan Magistrate or the Commissioner of Police to close sale of any intoxicants, by a notice in writing to the licensee for preservation of public peace, if any riot or unlawful assembly is likely to occur within the vicinity of the shop. He further refers to a report of the Inspection-in-charge, Deganga Police Station to establish that local villagers, including women, did not want the liquor shop to open, in the interest of the society.

Reliance is also placed on a subsequent report, which is filed today, pursuant to the direction of our predecessor Bench, dated September 16, 2025, prepared by the Superintendent of Police, Barasat Police District. The report mentions that the locality repeatedly witnessed opposition from the villagers in respect of liquor outlets. The appellant's bar had triggered resentment within the local people. The outlet was opened once before, but there was unrest. The Police had to intervene and five persons were arrested. A similar report was filed earlier before the learned Single Judge.

The two reports are taken on record.

We find from the police reports which were prepared in the month of August and September, 2025, that some local people had protested with regard to the operation of bar-cum-restaurant.

First and foremost, the appellant does not run any liquor shop. The premise is being used as a bar-cum-restaurant and alcohol is served only to the persons who avail of the service of the restaurant, inside the premises. Section 26 permits the Commissioner of Police or the District Magistrate to temporarily close shops selling intoxicants, in the event there is a chance of breach of peace within the vicinity of such liquor shop, for preservation of public peace.

In our view, this is a temporary measure which can be adopted by the administration so that a riot or an unlawful assembly does not get aggravated, upon consumption of alcohol which is being sold close to the affected areas. This cannot be applied in the instant case at this stage, only because some of the people/villagers are unhappy because alcohol is served to the customers inside the restaurant. The licence was issued to the appellant upon consideration of all factors. The law provides that public grievance was an important issue to be considered when a bar licence is given. It is not alleged by anybody that, the bar was operating in contravention to the terms and conditions of the licence. The licence was issued under the provisions of the Rules. Relevant portions of which are quoted below:-

“9. Procedure for selection of new site for grant of licenses.-

A. He shall ensure whether the following information and documents have been furnished by the applicant, along with the application :-

(a) A copy of treasury challan, showing deposit of non-refundable registration fee for application as fixed under the prevailing rules.

(b) An estimated monthly sale of Foreign Liquor or Tari, as the case may be, from the proposed licensed premises.

B. After obtaining the application, with the information and documents mentioned above, the Collector shall cause enquiry of the same by a responsible officer, to ascertain:-

i) The demand of the local area.

(ii) Whether the area is free from objections as contemplated in rule 8 of the West Bengal Excise (Selection of New Sites and Grant of Licence for Retail Sale of Liquor and Certain

Other Intoxicants) Rules, 2003, published vide Notification No.800-EX., dated 29.7.2003, as amended.

(iii) Whether the applicant(s) is/are eligible to hold the licence according to rules 11 and 12 of the Rules published under Notification No.80-EX., dated 29.7.2003 as amended.

C. The following steps shall thereafter be followed by the Collector:-

(a) He shall consider, public grievance, if any, that may be submitted to him in this regard.

(b) In case of receipt of such public grievance, he shall cause enquiry of the same. If on such enquiry, the representation(s) are found to be genuine, he shall not consider the prayer for grant of such licence at the proposed site.

(c) To form an opinion, he may conduct any other enquiries as he feels necessary.

D. After being satisfied that the proposed site is free from any restriction/objection and the proposed licensee(s) is/are eligible to hold an excise licence, the Collector shall send a proposal, with his opinion to the Excise Commissioner, recommending the grant of an excise license to the applicant(s). The Excise Commissioner shall thereafter forward the proposal and documents sent to him, along with his own opinion to the State Government. The State Government shall finally consider the proposal and the documents and opinions and if it is so satisfied, may approve the same and communicate its decision to the Excise Commissioner.

After receiving the communication, about the accord of approval by the State Government, from the Excise Commissioner, the Collector shall grant a license temporary for a period not exceeding six months to the said applicant(s)."

As some of the people within the locality fear that if alcohol is served inside the precincts of a restaurant, the morality and culture of the locality will suffer, the same cannot be a reason to invoke such 26 of the Bengal Excise Act.

The report of the police indicates that the police had initiated proceedings against the agitators. The

private respondents against whom the allegations were made by the appellants, clearly submit through their learned advocate that the said respondents are not involved in the agitation and they have not obstructed the appellant.

We also find that the mass agitation, if any, had taken place sometime in August and September, 2025. The appellant has a fundamental right to continue with his trade and calling on the terms and conditions of the licence. The licence was issued upon consideration of all aspects including public sentiment. The State Government was also sent all the papers for ratification and the State Government approved. At this juncture, few persons in the locality with a superior sense of morality cannot obstruct any business from inside the premises.

Under such circumstances, the order of closure of the alleged shop (actually Bar cum Restaurant) will stand recalled. The bar will operate strictly in terms and conditions of licence. The order impugned is set aside.

The appellant will ensure that, during the service hours the customers are restricted to the precincts of the restaurant. There shall not be any overcrowding. There shall not be any noise. The bar will operate strictly in accordance with the conditions of the licence. The police authorities shall keep a vigil to ensure that the appellant does not transgress the provisions of the

licence, and will also ensure that the peace and tranquillity is maintained. Two police constables shall be deputed for a fortnight at the cost of the appellant. The cost shall be assessed by the Superintendent of Police, Barasat Police District.

It is also pertinent to mention that another learned single Judge had specifically recorded the stand of the state respondents that, there was no law and order problem in the vicinity of the restaurant.

Accordingly, the appeal is disposed of. The connected application being CAN 1 of 2025 is also disposed of.

Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)