
(2001) 06 AP CK 0098

In the Andhra Pradesh High Court

Case No : Writ Petition No. 9199 of 2001 and Batch

Balaji Wines

APPELLANT

Vs

The Prohibition and Excise Superintendent and Others

RESPONDENT

Date of Decision : 28-06-2001

Acts Referred:

Andhra Pradesh (Indian Liquor and Foreign Liquor) Rules, 1970 — Rule 23, 23(13), 23(8), 24, 25
Andhra Pradesh Excise (Lease of Right to Sell Indian Liquor and Foreign Liquor in Retail) Rules, 1993 — Rule 3, 4
Andhra Pradesh Excise Act, 1968 — Section 15(2), 2(26), 28, 29, 3

Citation : (2001) 06 AP CK 0098

Hon'ble Judges : Goda Raghuram, J

Bench : Single Bench

Advocate : T. Amarnath Goud, for the Appellant; GP, for the Respondent

Final Decision : Dismissed

Judgement

Goda Raghuram, J.—Common questions arise in this batch of writ petitions, which are, thus, considered and disposed of by this common judgement.

2. The Prohibition Excise Superintendents of various districts issued notifications dated 02-05-2001 and 24-05-2001 inviting applications for grant of the lease of right to sell Indian Liquor, Foreign Liquor and Beer, in retail, in respect of various specified Mandals within their jurisdiction for the lease year 2001 and 2002. The Mandals, where such leases have to be granted, have been specified in the annexure to the gazette notifications, indicating also the slab areas within which each of the licences are to be granted.

3. The petitioners in these various writ petitions are either existing IL-24 licencees, licencees whose licences for the previous year or earlier years have been cancelled or suspended and who hope to have a revival of their business consequent on the invalidation of such cancellation or suspension on allowing of their appeals and revisions individuals who assail the notifications and underlying

policy of the State intending to permit more licences for the retail sale of alcoholic beverages under these categories; and a few Gram Panchayats claiming to be aggrieved by the deleterious affects of opening new shops pursuant to the licences to be granted, consequent on the notifications.

4. The challenge is asserted on the following broad contentions, in brief:

(a) that the power to grant licences under the regulatory regime obtaining under the Andhra Pradesh Excise Act, 1968 (Act No. 17 of 1968) (for short "the Act") and the relevant rules made thereunder viz., The A.P. (Indian Liquor and Foreign Liquor) Rules, 1970 (for short "the 1970 Rules"); Andhra Pradesh Excise (Indian and Foreign Liquor Retail Sale Conditions of Licences) Rules, 1993 (for short "1993 Rules"); Andhra Pradesh Excise (Lease of Right to sell Indian Liquor, Foreign Liquor and Beer in Retail under IL-24 licence) Rules, 1998 (for short "1998 Rules) and such other Rules enable the grant of licences, as a general measure, only once and that too at the commencement of the Excise lease year viz., 1st April of the year in question.

(b) the generality of IL-24 licences having been already granted at the beginning of the Excise year i.e., by 01-04-2001 either in the form of fresh licences or by renewal of the previous licences, there is (created) in such licencees, who have obtained licences by 01-04-2001, a legitimate expectation that the process of general licensing in the Excise year 2001 and 2002 has come to an end. This legitimate expectation was the underlying catalyst for the applicants for new licences at the beginning of the Excise year 2001 and 2002 to opt or agree to the obtaining of licences at the huge rentals. Permitting the State to periodically issue large number of licences, as a general measure would subvert the aforestated legitimate expectations of the existing licencees.

(c) that in the policy statement issued by the State Government, preceding the actual impugned notifications, formulae were enunciated for determining the number of new licences to be granted. The impugned notifications, however, do not confirm to the policy so enunciated.

(d) By a Government Memo dated 18-05-2001 it was directed that a fresh tranche of 253 licences should be granted for the stated reason that these number of licences of the previous year have not been renewed for the current year 2001 and 2002. Consequent on this policy statement, the second notification dated 24-05-2001 has been issued. The Mandal wise notifications in each of the districts under this notification, however, disclose that the shops notified are not at the exact place in respect of which the licences had not been renewed. The notification is, thus, contrary to the policy enunciated in the memo dated 18-05-2001.

(e) IL-24 licencees are not per se engaged in an illegal trade or business. The trade in alcoholic beverages is undoubtedly res-extra commercium. This only means that the State enjoys a wide measure of liberty to pro tanto or totally prohibit the trade whenever it chooses to do so in pursuance of the Directive

Principles of State Policy. The State is, however, at liberty to permit trade in alcoholic beverages. Once the trade is permitted, it cannot be said that persons obtaining licences from the State are engaged in a trade business or occupation that is illegal. It has also been declared that as between the dealers or licencees of alcoholic Beverages, State is obligated to comply with the constitutional requirement of equal protection of the laws. The State, under the above constitutional paradigm is enjoined to treat the existing licencees fairly. One of the attributes of such obligation is that under a grey area of availability of power, the State should not indulge in periodic, frequent and a general exercise of issuance of licences so as to bring about the economic ruination of the existing licencees.

5. On the above broad contentions, the various classes of petitioners seek invalidation of the two notifications issued by various Excise Superintendents in the various districts of the State of Andhra Pradesh dated 02-05-2001 and 24-05-2001 respectively.

6. Analysis of the Legislative Environment:-

A.P. Excise Act, 1968:-

Section: 3 of the Act enables the appointment of a Commissioner, who is ordained to be the Chief Controlling Authority in all matters connected with the administration of this Act. He is also empowered to exercise all the powers of the Collector under the Act and have the control over the administration of Prohibition and Excise Department.

Section: 4 of the Act postulates that the Collector shall exercise the powers and functions assigned by or under this Act, subject to the general control of the Commissioner.

Section: 8 of the Act enacts that the Commissioner, the Collector or the Prohibition and Excise Superintendent may, by order, delegate to any officer subordinate to him any of the powers conferred on or functions entrusted to the Commissioner, the Collector, or the Prohibition and Excise Superintendent by or under this Act, subject to such restrictions and control as may be prescribed, and subject also to such limitations and conditions, if any, as may be specified in the order of delegation.

Section: 15(2) of the Act delineates the licensing authorities. In terms of Section 15(2)(a) of the Act, either for sale or purchase within the district, the Prohibition and Excise Superintendent is specified the licensing authority.

Chapter VI of the Act sets out the provisions with regard to "licences and permits".

Section: 28 of the Act ordains that every permit issued or licence granted under the Act shall be issued or granted on payment of such fees, for such period, subject to such restrictions and conditions, and shall be in such form and shall

contain such particulars, as may be prescribed.

Section: 29 of the Act is in the nature of a house keeping provision enabling the licensing authority to require the licensee to give security for the terms of licence and to execute a counterpart agreement in consonance with the tenor of the licence.

Analysis of relevant Rules:-

1970 Rules:

The 1970 Rules are in the nature of general rules covering a wide canvas area of regulatory prescriptions.

Rule 23 of the Rules specifies various species of licences for sale of Indian Liquor and Foreign Liquor.

Sub-rule (viii) of Rule 23 of the Rules sets out the contours of the occasional licences known as "Form IL-22 licences".

Sub-rule (xiii) of the Rule 23 of the Rules deals with the retail licences in Form IL-24, which enables the holder of such licence to sell Indian and Foreign Liquor in sealed or capsuled bottles of a specified quantity.

Rule 24 of the Rules specifies that every licence other than the occasional licence in Form IL-22 or Special Licence shall be valid for a lease year commencing from the 1st April, ending with 31st March of the succeeding year, subject to payment of annual licence fee in one lumpsum. The first proviso to Rule 24 enacts that a licence issued on or after the 1st April shall be valid upto the end of 31st March of the succeeding year. There is a further proviso, which is not relevant for the purpose of the cases on hand.

Rule 25 of the Rules makes provisions for specification of licence fees and sub-rule (9) thereof incorporates a fee regime for fractions of the Excise year too. First proviso to sub-rule (9) of Rule 25 specifies the proportion of the actual licence fee that is required to be paid for licences granted during the lease year.

Rule 26 of the Rules, in conformity with the specifications in Section 15 of the Act, postulates that the Prohibition and Excise Superintendent shall be competent to grant, subject to such directions or instructions as may be issued by the Commissioner of Excise, from time to time, retail licences in Form IL-24.

1993 Rules:

The 1993 Rules, which could be construed to be special rules in relation to the 1970 rules, also set out the house keeping and regulatory provisions to govern the retail sale conditions of licence.

Rule 3 (b)(i) of the Rules defines the "lease year" as being the period of twelve months commencing from 1st April of the year and ending with the 31st March of the succeeding year.

It is to be noticed that "lease period" is defined in Rule 3(b)(ii) of the Rules as meaning the actual lease period in the lease year as notified by the auctioning authority.

Rule 4 of the Rules specifies "period of licence" and that the licence shall be valid for a lease year commencing from the 1st April of the year or such other date, which, as may be specified, in the licence and ending with the 31st March of the succeeding year.

1998 Rules:

These Rules are in the nature of further special rules qua the 1993 and the 1970 rules. They are specific and govern within their narrow compass and to the extent of their provisions, the grant of licences under Form IL-24. These Rules were initially issued in G.O.Ms.No.188 Rev. (Ex.II) Department dated 24-03-1998 for the Excise year 1998-1999 i.e., commencing from 01-04-1998 to 31-03-1999, but have been extended year to year by specific notifications in this behalf. In G.O.Ms.No.235 Rev. (Excise-II) Department dated 30-03-2001 in the purported exercise of the powers available u/s 72 of the Act, Rule (2) of the 1998 Rules was amended to extend the application of these Rules for the current Excise year too viz., for the year 2001-2002 i.e., for the period from 01-04-2001 to 31-03-2002.

Rule 2 of these Rules enables the grant of IL-24 licences in terms of the regulatory provisions and procedure contained in the 1970 Rules and 1993 Rules. The second proviso to Rule (2) of these Rules empowers the licensing authority to call for applications for the grant of IL-24 licences in the areas approved by the Government by issuing a notification in the district gazette atleast seven (7) days in advance of the date of selection.

At the time of institution of the writ petitions, some of the petitioners contended that the auction notifications are invalid in view of their purported issuance under the powers available under 1998 Rules notwithstanding that the rules are inapplicable for the current Excise year viz., 2001 and 2002. At the hearing of the writ petitions, however, this challenge has been withdrawn in view of the Amendment to the Rules brought about in G.O.Ms.No. 235 Rev. (Exc.II) Department dated 30-03-2001 making applicable the 1998 Rules to the current Excise year.

Counter affidavit has been filed on behalf of the respondents asserting the availability of power to issue licences periodically and during the lease year too. The claim of some of the petitioners that they have a legitimate expectation that no further licences would be granted as a general measure during the course of the Excise year, is resisted by the official respondents contending that there has been no such promise "express or implied" "textual or non-textual" and that in the absence of any such promise, there can be no subversion of legitimate expectation. The petitioners challenge that the formulae or principle for identification of the number of shops for issue of fresh licences has not been

followed, has been denied by the official respondents. The broad challenge that the notifications are vitiated by arbitrariness is also resisted by the official respondents.

Analysis of the rival contentions in the context of the legislative and statutory environment.

Issue:- Does the legislative and statutory regime disable the respondents-State or its instrumentalities from having recourse to general exercise of grant of IL-24 Licences after the commencement of the Excise year and during the course of such Excise year.

Section 28 of the Act contained in Chapter-VI deals with Licences and Permits. There is conferred a general grant of power, which ordains that every permit issued or licence granted under the Act shall be issued on payment of such fee, for such period, subject to such restrictions and conditions, and shall be in such form and shall contain such particulars, as may be prescribed.

Section 2(26) of the Act defines "Prescribed" as prescribed by rules made under the Act.

Rule 3 (ee) of the 1970 Rules defines "Lease Year" as the period of twelve months beginning from the first day of April of the year and ending with the 31st March of the following year.

Rule 24 of the 1970 Rules adumbrates that every licence other than the occasional licences in Form IL-22 or Special licence shall be valid for a lease year commencing from the 1st April, ending with 31st March of the succeeding year, subject to payment of annual licence fee in one lump sum. The first proviso thereof states that the licences issued on or after the 1st April, shall be valid upto the end of 31st March of the succeeding year.

Rule 25 of the 1970 Rules, which contains the provisions relating to licence fee in sub-rule (9) thereof prescribes the proportion of licence fee payable in respect of licences granted during the lease year in terms of annual licence fee. For instance, in respect of IL-24 licences granted between 1st June and 31st July, the licence fee payable shall be five sixth of the annual licence fee (clause (b) of proviso to Rule 25 (9)).

Rule 3 (b)(i) of 1993 Rules also defines the "Lease year" as meaning the period of twelve months commencing from the 1st April of the year and ending with the 31st March of the succeeding year.

Rule 4 of 1993 Rules specifies that the licence shall be valid for a lease year commencing from the 1st April of the year or such other date, which, as may be specified in the licence and ending with the 31st March of the succeeding year.

7. The 1998 Rules contain no prescription either defining the "Lease year" or specifying the "lease year".

8. A conspectus of the provisions of the Act and the 1970 and 1993 Rules leads to the following analysis.

(a) that there is a general definition of "Lease year" and delineation of such "Lease year" as occurring between the 1st April of a particular year and ending with the 31st of March of the succeeding year. The licensing authorities, however, are enabled to grant licences even after commencement of the Lease year. This is deducible from the fact that provisions have been incorporated specifying the quantum of rental in respect of licences issued during the currency of the Excise year and after commencement thereof. It is also prescribed that any licence issued even after the commencement of the Excise year, would enure only upto the end of the Excise year viz., 31st March of the year succeeding the commencement of the Excise year, irrespective of the date on which such licence is granted. The statutory environment thus recognises the legitimacy of a grant of licence after commencement of the lease year and contains no signals of any prohibition on the power of the Excise authorities.

ISSUE:- (b) Does the impugned exercise of notifying measures for the general grant of IL-24 licences (notifications dated 02-05-2001 and 24-05-2001) constitute an arbitrary exercise of power qua the existing licencees? Do the existing licencees have any legitimate expectations that have been subverted by the impugned State action?

9. It is too well settled to require elaboration that the trade in alcoholic beverages or intoxicants is not protected under Article 19 of the Constitution of India; and having regard to the fact that this trade or business are res extra commercium, no person involved in the trade or business in intoxicants or alcoholic beverages can claim to have a fundamental right to such trade or business. What, however, follows is that wherever the State farms out its exclusive privilege in such trade in alcoholic beverages in favour of a citizen, such citizen has within a narrow spectrum, a right to be considered fairly qua other similarly circumstanced class of citizens viz., other dealers or traders in alcoholic beverages. The State may not under the rubric of uncanalised power, claim any prerogative to discriminate between different groups of citizens, who form one class qua the trade or business in alcoholic beverages vide *COOVERJEE B. BHARUCHA Vs EXCISE COMMISSIONER AND THE CHIEF COMMISSIONER, AJMER & ORS.*(1) , *ASSAM STATE VS SRISTIKAR*2, *R.M.D. CHAMARBAUGWALLA & ANR VS. UNION OF INDIA*3 , *NAGENDRA NATH BORA & ANR VS. COMMISSIONER OF HILLS DIVISION AND APPEALS, ASSAM & OTHERS* 4 , *NASHIRWAR VS STATE OF MADHYA PRADESH*5, *HAR SHANKER VS. DEPUTY EXCISE & TAXATION COMMISSIONER*6, *STATE OF MADHYA PRADESH VS NANDLAL JAISWAL*7, *GOVERNMENT OF ANDHRA PRADESH VS. M/S ANABESHAHI WINE AND DISTILLERIES PVT LIMITED*8, *DOONGAJI & COMPANY VS. STATE OF MADHYA PRADESH & OTHERS*9, *M/s SONA LIQUORS [P] LTD & ORS. Vs UNION OF INDIA & Ors.*10, *KHODAY DISTILLERIES LIMITED VS. STATE OF KARNATAKA*11, *KHODAY DISTILLERIES & ORS. VS. STATE OF KARNATAKA & ORS* 12 AND *STATE OF*

10. The syllogism of the petitioners (licencees) challenge on the equality platform runs as follows:

We have all been granted IL-24 licences in or around the 1st of April, 2001. We led ourselves to believe that the exercise of grant of fresh licences which commenced towards the end of March, 2001 with effect from 01-04-2001 would be a one time affair. We also led ourselves to believe that no further licences on a general measure or large scale would be granted after commencement of the licence year. It is on this basis that we agreed to enter into the contract for pursuing the business under IL-24 licence involving payment of heavy rentals. The entering into licences by us was predicated upon an assumption that no further licences would be granted and the existing grant of licences would render the pursuit of our business viable. The act of the respondents in issuing the impugned notifications proposing the grant of a large number of licences (615 by the notification dated 02-05-2001 and 253 by the notification dated 24-05-2001) fundamentally subverts our legitimate expectation predicted upon the belief, we entertained on the basis of the statutory environment which prohibits mid lease year grants of IL-24 licences.

Having regard to the conjoint signals emanating from the legislative and statutory regime, to which reference has been made earlier, it is apparent that there is no legal foundation for the petitioners asserted belief, a belief based upon any rational interpretation of the statutory provisions governing the field of grant of IL-24 licences. In the absence of any prohibition upon the State, a prohibition emanating from a specific statutory prescription the State must be considered as having the broad power to farm out its exclusive privilege of dealing with intoxicant beverages. It is too well settled that no legislative provision is required for the State to do business. Its executive power under Article 162 read with Article 298 of the Constitution empowers the State to conduct its business. What the provisions of the Act and other legislative instruments provide is an architecture of regulatory power enabling the State to contour and control the various facets of the trade and business in alcoholic beverages, particularly when the exclusive privilege of the State is farmed out to private individuals. The statutory instruments constitute instruments of instructions and guidelines providing for an elaborate spectrum of regulatory provisions in the area of farming out the State's exclusive privilege; proscribing the trade or business in certain types of alcoholic beverages; determining the method and manner of grant of licences and their regulation including by way of suspension or cancellation, a frame work for identifying and punishing violations of the conditions of licences and such other house keeping provisions, as are necessary for the due regulation of this pernicious but recidivist human activity, with a view to subserve the larger Constitutional values of preserving the health and nutrition of the general public.

11. On this analysis, in the absence of any specific statutory prescription

disabling the State from granting licences post commencement of the Excise or Lease year, as have been defined, there is no warrant for any assumption that the state action of grant of mid lease-year licences is prohibited.

12. The asserted expectation of the petitioners that the State would not grant licences after the commencement of the Excise year is thus seen to be founded on no legally recognisable principle or basis. The available power and exclusive privilege of the State to deal with alcoholic or intoxicant beverages and in any reasonable manner, it likes, cannot be circumscribed on any of the jejune and unfounded assumptions that the petitioners assert. There is no legitimate expectation of the petitioners established and none that has been subverted by the impugned notifications.

13. It has been faintly urged that in none of the previous years has the State Government resorted to such exercise of granting a large number of IL-24 licences after the commencement of the Excise year. The forensic implication from this contention has no legal basis. An available power is not lost by earlier non user. In the light of the availability, constitutionally, of power in the State and in the absence of any statutory prohibition or limitation upon such power, the absence of any similar conduct in the past by the State, cannot tantamount to disability in the State to grant licences, after commencement of the Excise year.

14. G.O.Ms.No.177 Revenue (Excise-II) Department dated 08-03-2001 (for short "G.O. 177"); and the Memo No.25171/Ex.II/2/2001-1 dated 01-05-2001 set out the rationale of the notifications dated 02-05-2001 and 24-05-2001 respectively. The first of these Government orders dated 08-03-2001 (issued even prior to the commencement of the Excise year 2001 and 2002) sets out the decision of the Government arrived at after review of the supply and demand position of liquor in the State. It is stated that it has been noticed that there are some Mandals where the number of shops are very few and these are not in a position to cater to the needs of the people spread over a vast area; and that in order to bridge the gap between demand and supply and to discourage cartelization, the Commissioner of Prohibition and Excise is permitted to issue licences for new retail IML shops wherever necessary basing on the off-take from the Andhra Pradesh Beverages Corporation Limited in the area and the existing retail outlets in the previous year i.e., 2000 and 2001. This order of the Government permits the Commissioner to issue new retail licences at any time during the lease year depending upon the need.

15. In the context of the fact that in the districts, it is the Excise Superintendent, who is the authorised licensing authority qua Section 15(2) of the Act and the 2nd proviso to Rule 2 of the 1998 Rules, the order of the Government as contained in para-2 of the said G.O. 177 to the extent it enables the Commissioner of Prohibition and Excise to issue new licences appears inconsistent with the legislative and statutory regime. However, reading the order in harmony with the legislative provisions, it would appear that what is intended is that the Commissioner of Prohibition and Excise being the chief controlling

authority in terms of Section 3 of the Act, has been permitted to issue necessary instructions or guidelines for effectuation of the policy contained in G.O. 177 and not that G.O. 177 constitutes the Commissioner, Prohibition and Excise as the licensing authority in derogation of the powers conferred on the Excise Superintendent u/s 15(2)(a) of the Act.

16. Be that as it may, the factual assessment underlying the policy initiative of the State as contained in G.O.177 having resulted in the issuance of the impugned notifications, it cannot be held that the notifications have been issued irrationally, arbitrarily or without any justification what-so-ever.

17. It has been faintly urged on behalf of the Gram Panchayat petitioners that the policy of the State as contained in the first paragraph of G.O.177 is constitutionally unsound inasmuch as the underlying purpose of the policy is to encourage greater consumption of the commodity which is inherently pernicious to human health and has been so recognised in the Directive Principles of State Policy. I am, however, not called upon to adjudicate the issue, having regard to the fact that what number of licences alone are conducive to the health of the population and what number of licences and beyond what point would involve a degree of consumption which would be clearly detrimental to public health are questions which do not fall within judicially manageable standards. The extant binding decisions have negative a challenge to State action permitting dealing with intoxicant beverages on the ground of violation of the Directive Principles of State Policy. These decisions disable adjudication of this facet of challenge to the impugned notifications vide B. KRISHNA BHAT VS. UNION OF INDIA¹⁴.

18. By the memo dated 18-05-2001, the State decided to issue fresh licences. This decision has been taken on the basis of a report from the Commissioner, Prohibition and Excise, who informed the State Government by his letter dated 09-05-2001 that 253 licencees have not renewed their licence for the current year 2001-2002. It is stated in the Government memo dated 18-05-2001 that as per the feed back received from the field, retail licencees in some areas have contrived not to renew certain IL-24 licences with a view to reduce the number of retail shops and later jack-up the retail prices. The memo further records that in order to discourage cartelisation, the Commissioner has requested the Government to accord necessary permission to establish fresh retail licences in those places, duly following the prescribed procedure; and that the Government, on consideration of the matter, accorded permission to establish 253 non-renewed IL-24 shops. This decision of the State Government has engendered the second notification dated 24-05-2001.

19. The specific challenge in this area is that in the notification dated 24-05-2001 fresh licences are proposed Mandal wise and are not confined to those specific places where IL-24 licences of previous year have not been renewed. Thus, the grant of fresh licences would not subserve the purposes for which the decision to issue fresh licenses has been taken qua the Government memo dated 18-05-2001.

20. I am of the considered view that the notification dated 24-05-2001 cannot be invalidated on this basis. The particular policy enunciated by the memo dated 18-05-2001 is on a stated recognition of the fact that a large number of (253) licences, which existed in the previous year 2000-2001 have not been renewed in the current year 2001-2002. This shortfall in renewals has been assessed by the State as based upon a systematic plan to bring about cartelisation and jacking up of the retail prices. To meet this assessed evil, the State has decided to take remedial measures. As part of its executive power, the State Government is empowered to recognise the degrees of harm and take legislative or executive measures, which in its view, would mitigate such evil or harm. As enunciated as a principle of the doctrine of classification in *RAM KRISHNA DALMIA Vs. JUSTICE TENDOLKAR* 15 applicable proprio vigore to the extent of executive power by the State too, the executive is free to recognise the degrees of harm and construct its restrictions to those cases where the need is deemed to be the greatest or imminent.

21. Having recognised the factum that certain IL-24 licences of the previous year have not been renewed in the current year, the State, the Commissioner of Prohibition and Excise and the Excise Superintendents, as the case may be, are free to make good the shortfall by granting licence, taking the Mandal as a unit. The exact location of a shop in the Mandal would depend on the outcome of the process of grant and by the drawal of lots, if there is more than one applicant. It may be that a licence may be granted in a location very proximal to an existing licence in which event such licensee may urge that he would suffer a drastic diminution of his business or that such location is inconsistent with any expressed policy of the department in the matter of location of IL-24 shops at a specified distance to each other. It is after the grant of any such shop; or after a particular existing licensee is adversely impacted that the cause of action for ventilating any such grievance would arise and he would be at liberty to initiate appropriate proceedings for relief, but this can only be after the grant of a licence. The notification dated 24-05-2001 is per se not susceptible to the invalidation by this court on any of the grounds urged by the petitioners.

22. It has been urged on behalf of some of the petitioners that the impugned notifications by the Excise Superintendents are incompetent on the ground that the Excise Superintendent is not the authority empowered to issue any notification for grant of IL-24 licence. On an analysis of the legislative and statutory environment, this contention seems misconceived. In terms of the legislative presents Section 15(2)(a) of the Act and second proviso to Rule 2(a) of 1998 Rules read with Rule 26 (i)(c) of 1970 Rules, the Excise Superintendent is the licensing authority, who is empowered to call for applications for grant of IL-24 licences by issuing notification in the district gazette (second proviso to Rule 2 of 1998 Rules). The impugned notifications, thus, do not suffer from any infirmity on account of the incompetence of the Excise Superintendents.

23. In the light of the foregoing analysis, I find no infirmity in the impugned

notifications warranting interference by this Court on any of the grounds urged by the petitioners.

24. The writ petitions are accordingly dismissed. No costs.