(2021) 07 UK CK 0128

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 1366 Of 2021

Bhupal Arya APPELLANT

Vs

Collector/District Magistrate Dehradun And Ors RESPONDENT

Date of Decision : 20-07-2021

Acts Referred:

Citation : (2021) 07 UK CK 0128

Hon'ble Judges : Manoj Kumar Tiwari, J

Bench : Single Bench

Advocate : Sandeep Kothari, T.S. Phartiyal, V.K. Kaparwan

Final Decision : Disposed Of

Judgement

Manoj Kumar Tiwari, J

1. Heard learned counsel for the parties through video conferencing.

2. Petitioner was granted licence for retail sale of Indian Made Foreign Liquor. Pursuant to said licence, he set up a shop at Rajpur Road-3 (near

Gandhi Park), Dehradun. Subsequently, on his application, he was permitted to shift the shop to some other place, which is about 500 mtrs. away from

the earlier shop, by the District Excise Officer, vide order dated 09.07.2021. Respondent no.4, who is a licensee in respect of some other shop at

Rajpur Road-1 (near R.T.O.), challenged the order of shifting, before the Excise Commissioner. The Excise Commissioner, vide order dated

15.07.2021, has stayed the order of shifting passed in favour of the petitioner and has posted the appeal for further hearing on 24.07.2021.

3. Learned counsel for the petitioner submits that the order passed by Excise Commissioner on 15.07.2021 has the effect of closing down the shop of

the petitioner, inasmuch as, petitioner has vacated the earlier shop, which was taken on rent by him. He further submits that the order of stay was

passed by the Excise Commissioner without notice to the petitioner and further that the stay order was passed after execution of the order of shifting

passed by the District Excise Officer.

4. Learned counsel for the petitioner further submits that as per the terms of licence, petitioner is obliged to pay about Rs. 60.00 Lakhs as minimum

monthly guarantee duty to the Excise Department, besides licence fee and various other charges. Thus, according to him, petitioner would be liable to

pay various charges/duties even for the period during which his shop remains closed.

5. Mr. T.S. Phartiyal, learned Additional Chief Standing Counsel appearing for the State of Uttarakhand/respondent nos. 1, 2 and 3 and Mr. V.K.

Kaparwan, learned counsel appearing for respondent no.4 submit that petitioner has filed application for vacation of stay before the Excise

Commissioner, therefore, he is not entitled to any relief in this writ petition.

6. Having regard to the facts and circumstances of the case, the writ petition is disposed of with a direction to the Excise Commissioner to decide the

Stay Vacation Application filed by the petitioner in the appeal filed by respondent no.4 on the next date fixed i.e. 24.07.2021 or any other date within

one week thereafter. For a period of two weeks or till disposal of Stay Application, whichever is earlier, order dated 15.07.2021 passed by the Excise

Commissioner shall be kept in abeyance.

7. Let a certified copy of this order be issued today itself.