
(2013) 07 CAL CK 0102
In the Calcutta High Court
Case No : Writ Petition No. 21056 (W) of 2013

Debdas Maity

APPELLANT

Vs

State of West Bengal

RESPONDENT

Date of Decision : 25-07-2013

Acts Referred:

Citation : (2013) 4 CHN 668

Hon'ble Judges : Sanjib Banerjee, J

Bench : Single Bench

Advocate : Soumitra Dasgupta, for the Appellant; Abhratosh Majumder and Md. T.M. Siddiqui, for the Respondent

Final Decision : Dismissed

Judgement

Sanjib Banerjee, J.—The petitioner seeks a direction on the respondent authorities to consider the petitioner's application for grant of licence for a foreign liquor off shop. The petitioner relies on an order of this Court of June 11, 2013 to suggest that it would be evident from such order that any person may apply for such licence irrespective of whether the area in which the shop is sought to be established has been earmarked or notified by the Government for the purpose of opening any liquor shop. The order dated June 11, 2013, a copy whereof appears at page 58 of the petition, was in the context of the collector rejecting the application without indicating adequate reasons in support thereof. The same would be evident from the following lines in the opening paragraph of the order:

...The collector has, however, not indicated the appropriate provisions, whether in the statute or in the rules, that prohibit an application to be made by a person desirous of opening a foreign liquor off shop without there being any advertisement issued by the Government.

2. The Court had no occasion to consider whether an application could be made without any area being notified for liquor shops to be opened thereat. The order

must be restricted to the circumstances in which it was made that the collector did not indicate any reasons for rejecting the same; it cannot be extended to suggest that the order accepted that any person has a right to apply for a liquor shop to be opened wherever he wants and such application must be considered by the collector or the appropriate authorities irrespective of whether the area or locality has been notified for such purpose.

3. It appears from section 30 of the Bengal Excise Act, 1909 that the State Government may select new sites in any locality or area for grant of licence for retail sale of spirit at new sites or in the vicinity thereof having regard to public demand. The authority of the collector to grant a licence for retail sale of spirit at any shop arises only upon a site being selected by the Government u/s 30(1) of the Act. Rule 9 of the West Bengal (Selection of New Sites and Grant of Licence for Retail Sale of Liquor and Certain Other Intoxicants) Rules, 2003 provides for the procedure for selection of new sites and grant of licences for shops to be opened at the new sites. However, it is evident from both section 30 of the Act and the Scheme of the 2003 Rules framed thereunder that it may not be possible for any person to apply for the grant of a licence to open a retail shop for sale of spirit anywhere that the applicant pleases; the application has to be made in respect of a site selected by the Government u/s 30(1) of the Act.

4. Since it is not the petitioner's case herein that the petitioner's application for grant of licence for a foreign liquor off shop is within any site identified or selected by the Government, no question arises of the application being entertained or considered by the collector or any other authority.

5. W.P. No. 21056 (W) of 2013 is dismissed. There will be no order as to costs.