

(1997) 04 P&H CK 0140
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 4909 of 1985

Gagan Hotel and Restaurant	Vs	APPELLANT
State of Punjab and Others		RESPONDENT

Date of Decision : 02-04-1997

Acts Referred:

Constitution of India, 1950 — Article 19(1)
Punjab Excise Act, 1914 — Section 43
Punjab Liquor Licence Rules, 1956 — Rule 12

Citation : (1997) 116 PLR 529 : (1997) 3 RCR(Civil) 315

Hon'ble Judges : T.H.B. Chalapathi, J

Bench : Single Bench

Advocate : G.S. Sadana, for the Appellant; Parminder Singh, AAG and I.P.S. Doabia, for the Respondent

Final Decision : Dismissed

Judgement

T.H.B. Chalapathi, J.—The petitioner namely Gagan Hotel and Restaurant obtained a licence in Form L-4A and L-5-A for running a Beer Bar in the year 1982 which is being renewed from time to time. The petitioner is also having a licence from Municipal Committee to sell eatables like both vegetarian and non-vegetarian and the licence of the petitioner was also renewed by the Excise Department and the Municipal Committee for the year 1994-95. In January, 1995 the State Government decided to declare Mukatsar Town where the petitioner is running his business as a holy city and as such there would be no sale of liquor in the municipal limits of Mukatsar. According to the petitioner, inspite of the decision taken, the liquor vends were auctioned on 15.3.1995 and the petitioner also deposited a sum of Rs. 30,000/- towards the licence fee for running the Beer Bar and sent his application for renewal of the licence, but the authorities refused to renew the licence on the ground that Mukatsar was declared as a holy city, therefore no sale of liquor is permitted. According to the petitioner, its hotel is situated at a distance of half a kilometer from the Gurudwara Sahib, Darbar Sahib. The petitioner is seeking a writ of mandamus directing the respondents to

renew his licence as he has already deposited the requisite licence fee.

2. In the written statement filed by the respondents, it is contended that the petitioner has no Fundamental Right to have the licence renewed and that the hotel and restaurant of the petitioner is situated on the Railway Road and no liquor vend can be opened near a religious place as per the Excise Policy and the limits of the holy city were fixed by the Government in accordance with the Cabinet decision and the licence of the petitioner was not renewed for the year 1995-96 keeping in view the Excise Policy of the Government under which Mukatsar city has been declared as a holy city within the boundaries prescribed by the 1937 Notification regarding municipal limits and the hotel of the petitioner falls within the limits of holy city and, therefore, the writ petition is liable to be dismissed as the petitioner has no legal right.

3. It is not disputed that the petitioner hotel/restaurant is located within the municipal limits of Mukatsar city as notified. The limits of Municipality, Mukatsar were notified by the Local Govt. Department in its Notification dated 25.3.1975 (Annexure P-10). Therefore, there is nothing on record to show that the petitioner's hotel/restaurant will not come within the municipal limits of Mukatsar as notified by the Punjab Government in its Notification dated 23.12.1937 read with the Notification dated 25.3.1975. There is also no dispute that Mukatsar was declared as a holy city. The Government issued Excise Policy in its Memo No. I/9/95-ET-2(8)/918 dated 9.3.1995. The relevant portion of the said Policy reads as follows:-

"It has been decided to declare Bhaini Sahib (District Ludhiana), Kiratpur Sahib (District Ropar), and Mukatsar (District Faridkot) as "Holy cities". Holy city limits for Mukatsar, however, will be within the boundaries as specified by the Notification No. 5310-C. I-37-A/4846 dated 23.12.37 issued by the Local Govt. Department of Punjab. There will be no vends or sale of liquor in the municipal limits/Red Line area of holy cities/villages".

4. It is the common case that the Govt. has taken a policy decision not to grant or renew the licence in holy places. That policy cannot be challenged on the ground of any violation of Fundamental Rights. No citizen has got a right to trade in liquor. In *Cooverjee B. Bharucha Vs. The Excise Commissioner and the Chief Commissioner, Ajmer and Others*, , the apex Court held as follows:-

"There is no inherent right in a citizen to sell intoxicating liquor by retail; it is not a privilege of a State or of a citizen of the United States. As it is a business attended with danger to the community, it may, as already said, be entirely prohibited or be permitted under such conditions as will limit to the utmost its evils. The manner and extent of regulation rest in the discretion of the government authority".

5. The Supreme Court laid down three propositions in the above mentioned case.

(i) That there is no inherent right of citizens to carry on trade in intoxicating

liquor (ii) the auction sale of liquor shop is a method by which carrying on particular trade in liquor is regulated and (iii) that there can be a monopoly only when a trade which could be carried on by all persons is entrusted to one or more persons to the exclusion of general public. The view expressed by the Supreme Court in Cooverjee B. Bhanicha's case (supra) was reiterated in Nashirwar and Others Vs. State of Madhya Pradesh and Others, .

6. Thus it is clear that no person can claim as of right to obtain a licence or renew the licence for sale of liquor. The State Government has got the right either to prohibit the sale of liquor or impose conditions while granting licence for the sale of liquor. When the Government has taken a policy decision not to permit the sale of liquor in the holy cities, it is acting within the provisions of Punjab Excise Act, 1914 (hereinafter referred to as the "Act")

7. Section 43 of the Act provides that no person to whom a licence, permit or pass may have been granted shall be entitled to claim any renewal thereof and no claim shall lie for damages or otherwise in consequence of any refusal to renew a licence, permit or pass on the expiry of the period of which it, remains in force.

8. Under Rule 12(a) of the Punjab Liquor Licence Rules, 1956, no person to whom, a licence has been granted shall be entitled to claim as of right renewal thereof and no claim shall lie for damages or otherwise in consequence of any refusal to renew a licence on the expiry of the period for which it was granted.

9. When the Government has taken a policy decision not to grant any licence within the particular municipal limits or renew the licence already granted to sell liquor within the particular municipal limits, the same cannot be found fault with because it is within the competence of the State Government to regulate the sale of liquor in any particular area which includes prohibiting the sale of liquor in that particular area. Therefore, I am of the opinion that refusal to renew the licence of the petitioner on the ground that Mukatsar city has been declared as a holy city and Government of Punjab has taken a policy decision not to permit the grant or renewal of any licence for the sale of liquor within the municipal limits of Mukatsar city, is absolutely valid. The petitioner cannot, as a matter of right, claim the renewal of his licence for the sale of liquor.

10. On a consideration of the facts and circumstances of the case, I am of the opinion that the petitioner has no right for renewal of his licence and, therefore, the action of the respondents in refusing to renew his licence is legal and valid. I, therefore, do not find any grounds warranting interference with the same.

11. The writ petition, therefore, fails and is, accordingly, dismissed. But in the circumstances of the case, there will be no order as to costs.