

(2001) 11 AHC CK 0052
In the Allahabad High Court
Case No : C.M.W.P. No. 1091 of 2001

Gulzari Lal Rai

APPELLANT

Vs

Collector, Jhansi and Others

RESPONDENT

Date of Decision : 09-11-2001

Acts Referred:

Uttar Pradesh Excise (Settlement and Licences for Retail Sale of Country Liquor) Rules, 2001 — Rule 20(2)

Citation : (2002) 1 AWC 20(1)

Hon'ble Judges : S.K. Sen, C.J.; R.K. Agarwal, J

Bench : Division Bench

Advocate : L.P. Singh, for the Appellant; S.P. Kesharwani, S.C., for the Respondent

Final Decision : Allowed

Judgement

S.K. Sen, C.J.—We have heard Sri L.P. Singh, learned advocate for the writ petitioner and Sri S.P. Kesharwani, learned standing counsel for the State respondents.

2. The contention of the learned counsel for the writ petitioner is that no opportunity of hearing was given to him before passing impugned order of cancellation of his licence in terms of Rule 20 (2) of the Uttar Pradesh Excise (Settlement of Licences for Retail Sale of Country Liquor) Rules, 2001 thereafter referred to as the Rules). Rule 20 (2) of the Rules reads as under:

"20 (2). The Licensing Authority shall immediately suspend the licence and forfeit the security deposit on abovementioned grounds. The Licensing Authority will also serve a show cause notice for cancellation of licence and the licensee shall submit his explanation within 7 days of the receipt of notice. Thereafter the Licensing Authority will pass suitable orders after giving due opportunity of hearing to the licensee, if he so desires."

3. This contention of the writ petitioner cannot be disputed from the record

available. No date was fixed for hearing of the writ petitioner. Sri S.P. Kesharwani, learned standing counsel submitted before us that the writ petitioner should have asked for opportunity of hearing and also time to reply the show cause notice. We feel that in view of the mandatory requirements of the Rule providing for opportunity of hearing, the authority concerned should have given opportunity of hearing to the writ petitioner. In that view of the matter, the order passed in the instant" case, being contrary to the Rules, cannot be said to be valid and as such the same should be set aside. We accordingly set aside the impugned order dated October 30, 2001, cancelling the licence of the petitioner, challenged in the instant case. We however, make it clear that this order shall not prevent the respondent authority to proceed with the matter on the basis of the show cause notice in accordance with law and to pass a fresh order after giving opportunity of hearing to the writ petitioner.

4. With the above observations, the writ petition stands allowed.