
(2019) 06 UK CK 0106

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 1524 Of 2019

Kailash Singh Bisht

APPELLANT

Vs

State Of Uttarakhand & Others

RESPONDENT

Date of Decision : 24-06-2019

Acts Referred:

Constitution Of India, 1950 — Article 142

Citation : (2019) 06 UK CK 0106

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Advocate : Aditya Singh, Yogesh Pandey

Final Decision : Dismissed

Judgement

Sudhanshu Dhulia, J

1. Miscellaneous application (IA No.7979 of 2019) is allowed. Counter affidavit filed on behalf of respondent no.4 is taken on record.

2. The petitioner seeks a bar licence to open a "Suroor Restaurant" at Haldwani, District Nainital, for which (i.e. for the year 2016-2017) the petitioner had already deposited the process fee and the licence fee. It is also an admitted fact that the respondent authorities had granted this approval to the petitioner for opening of the bar.

3. Meanwhile, a decision of the Hon'ble Apex Court came in the case of The State of Tamil Nadu & others Vs. K. Balu & another passed in Civil Appeal Nos.12164-12166 of 2016 on 15.12.2016 and following directions as to the issuance of bar licence have been made by the Hon'ble Apex Court:-

"(i) All states and union territories shall forthwith cease and desist from granting licences for the sale of liquor along national and state highways;

(ii) The prohibition contained in (i) above shall extend to and include stretches of such highways which fall within the limits of a municipal corporation, city, town

or local authority;

(iii) The existing licences which have already been renewed prior to the date of this order shall continue until the term of the licence expires but no later than 1 April 2017;

(iv) All signages and advertisements of the availability of liquor shall be prohibited and existing ones removed forthwith both on national and state highways;

(v) No shop for the sale of liquor shall be (i) visible from a national or state highway; (ii) directly accessible from a national or state highway and (iii) situated within a distance of 500 metres of the outer edge of the national or state highway or of a service lane along the highway.

(vi) All States and Union territories are mandated to strictly enforce the above directions. The Chief Secretaries and Directors General of Police shall within one month chalk out a plan for enforcement in consultation with the state revenue and home departments. Responsibility shall be assigned inter alia to District Collectors and Superintendents of Police and other competent authorities. Compliance shall be strictly monitored by calling for fortnightly reports on action taken.

(vii) These directions issue under Article 142 of the Constitution."

4. Since this order had come from the Hon'ble Apex Court and the place where the bar was to operate was within 500 meters from the State highway and within the Municipal Limits of Haldwani, the licencing authority ultimately did not issue the licence to the petitioner.

5. The case of the petitioner now is that the embargo contained in the earlier order dated 15.12.2016 passed by the Hon'ble Apex Court has been clarified by the Hon'ble Apex Court vide order dated 11.07.2017 and the bar would not be within Municipal area. Paragraph no.7 reads as under:-

"7. The purpose of the directions contained in the order dated 15 December 2016 is to deal with the sale of liquor along and in proximity of highways properly understood, which provide connectivity between cities, towns and villages. The order does not prohibit licensed establishments within municipal areas. This clarification shall govern other municipal areas as well. We have considered it appropriate to issue this clarification to set at rest any ambiguity and to obviate repeated recourse to IAs, before the Court."

6. In view of this, the learned counsel for the petitioner would argue that the petitioner is liable to be given a bar licence for the year 2016-2017, for which he has already given the requisite fee.

7. The State Counsel would submit that in case a fresh application is made by the petitioner, the same will be considered in accordance with law, for the relevant year. The application earlier moved by the applicant stands lapsed and

petitioner cannot be granted a bar licence for the year 2016-2017. The stand taken by the State seems to be fair, rather appropriate under the circumstances.

8. In view of the above, no interference is being called for in the matter.

9. The writ petition stands dismissed.

10. However, the petitioner would be at liberty to move a fresh application for the issuance of a bar licence before the concerned authority which shall be considered in accordance with law. It is made clear that no directions is being made to the respondent authorities for granting a bar licence to the petitioner.