
(1991) 04 GAU CK 0001
In the Gauhati High Court
Case No : Civil Rule No. 1954 of 1991

Naren Borah

APPELLANT

Vs

State of Assam and Ors.

RESPONDENT

Date of Decision : 25-04-1991

Acts Referred:

Citation : (1991) 1 GLJ 491

Hon'ble Judges : S.Haque, C.J. and J.M.Srivastava, J

Bench : Division Bench

Advocate : P.Prasad, D.N.Choudhary, C.Barua, Advocates appearing for Parties

Judgement

S.Haque, C. J. (Acting)

Heard learned Senior Counsel Mr. D. N. Cboudhury, on behalf of the petitioner. Also heard learned Senior Govt. Advocate Mr.P.Prasad for the respondents.

Prayer of Shri Juga Kumar Arandhara to intervene in this writ petition is rejected,

The petitioner Shri Naren Borah was granted Indian made foreign liquor retail "Off" licence at Doom Dooma Town for 3 years by the Government of Assam vide order under letter No. EX 105/90/115, dated Dispur the 5th December, 1990 (Annexure D) and thereafter Licence No. 4 for Doom Dooma Town, District Tinsukia was issued by the Deputy Commissioner/Collector, Tinsukia on 9.1.91 (Annexure G) pursuant to Govt. order (Annexure D) and High Court's order dated 4.1.1991 (Annexure F) and the Licence is valid for 3 years. Petitioner had started the business in the shop holding No. 36 of Ward No. A, a rented house under landlords Kishore Prasad and Motilal Jaiswal.

The Deputy Commissioner/Collector Tinsukia District vide order No. TEX/4/86/216, dated Tinsukia 7.3.1991 revoked the licence of the petitioner pursuant to Govt. order under letter No. EX. 105/90/295, dated Dispur 21.3.91 (Annexure K. and L respectively). The ground for revocation of the licence indicated in the orders was on alleged suppression of facts by the petitioner that

the premise of the IMFL shop within holding No. 36 let out by K.P.Jaiswal falls within Railway land and that Railway have taken legal action to evict Jaiswal from that land.

The main grievance of the petitioner is that the licence was revoked without notice and opportunity of showing cause/hearing. We are not to scrutinise whether he suppressed the alleged facts or if those facts were required/necessary to be stated in the application asking for licence, but the consideration is whether he was entitled to a notice or opportunity of hearing before revocation/cancellation of the licence. The licence was granted and issued for 3 years after due consideration of all particulars of the petitioner stated in his application. Learned Government Advocate could not show any term/condition/ clause in the licence empowering the issuing authority to rescind the licence without notice/ opportunity of hearing. Thus cancellation of the licence without issuing notice was clear violation of principle of natural justice on the part of Government and Deputy Commissioner/Collector. The order under Annexure L and K deserved to be quashed.

This writ petition is allowed. Both the order under Annexure L and K referred to above are quashed.