
(2012) 07 AP CK 0068

In the Andhra Pradesh High Court

Case No : PIL No"s. 223, 230 and 235 of 2012

P. Subhash

APPELLANT

Vs

The State of A.P. and Another

RESPONDENT

Date of Decision : 18-07-2012

Acts Referred:

Andhra Pradesh Excise Act, 1968 — Section 17, 28, 29, 72
Constitution of India, 1950 — Article 14, 19(1)(g), 21, 243D, 39

Citation : (2013) 1 ALT 71

Hon'ble Judges : Pinaki Chandra Ghose, Acting C.J.;C. Praveen Kumar, J

Bench : Division Bench

Advocate : S. Sriram, for the Appellant;

Final Decision : Dismissed

Judgement

Hon"ble Pinaki Chandra Ghose, Acting Chief Justice

1. Challenge in these public interest litigation cases is to the Andhra Pradesh Excise (Grant of Licence of selling by shop and conditions of licence) Rules, 2012 made by the Government of Andhra Pradesh vide G.O. Ms. No. 391, Revenue (Ex. II) Department, dated 18.6.2012. Therefore, all the three cases were heard together and are disposed of by this common order. Before proceeding to deal with the issue in question, the facts in each of the petitions may be noted.

PIL No. 223 of 2012

The Government of Andhra Pradesh formulated a new Excise Policy in relation to disposal of retail liquor shops during the Excise Year 2012-13. In pursuance of the said policy, the Government issued the Andhra Pradesh Excise (Grant of Licence of selling by shop and conditions of licence) Rules, 2012 (hereinafter referred to as "the Rules") in supersession of the earlier rules issued in 2005. In this writ petition, the petitioner, who is a practising advocate, has challenged Rule 12 of the Rules. Under the said rule, the method of selection of licensees by drawal of lots has been introduced. According to the petitioner, the Rules do not

provide for verification of an applicant's profile, antecedents, financial wherewithal and social status as also scrutiny of statutory income tax returns to be filed by him, except the declaration contained in Form A-1, affidavit in Form A-2 and personal particulars in Form A-3. The limited scrutiny mandated under the Rules resulted in huge fraud on the State by the ingenuity of the applicants and political benefactors who had managed to secure the licences in violation of law. The Rules facilitate impersonation in the absence of any power to verify the past credentials of the applicants. Even the power to reject an application if the competent authority is not satisfied with the details furnished by the applicant is not given to it.

2. The petitioner has referred to an interim order dated 16.4.2012 in PIL No. 70 of 2012 and stated that the statutory rules framed by the State hitherto in regulating the activity of licensing the retail sale of liquor had been abused by the applicants and the executive-bureaucratic as well as political, on account of absence of transparent verification of an applicant's credentials, financial wherewithal to submit the bid etc.. Having regard to the serious injury to public interest and the fact that a few persons behind the benamis were controlling the State's resources so as to ensure ownership and control of the material resources of the community resulting in frustration of the constitutional goal under Article 39 of the Constitution, the State was required to put in place stringent rules to avoid benami licensees.

3. It is submitted that pursuant to the Excise Policy and the Rules, applications have been invited for grant of licence for sale of liquor in licensed premises on 20.6.2012 and the selection process was to commence on 26.6.2012. In the event of the authorities accepting applications without reference to the income tax returns, social status etc., public interest would be in jeopardy. Hence, the petitioner has prayed for a declaration that Rule 12 of the Rules is arbitrary, illegal and violative of Article 14 of the Constitution of India and to set aside the same with a consequential direction to the respondents to ensure that there are no benami applications for grant of licence under the Rules.

4. Respondent No. 2 has filed a counter affidavit refuting the allegations made by the petitioner. It is inter alia stated that the Government constituted a Cabinet sub-committee to go into the policy of retail vending of liquor in the State and after due deliberations with the stake holders such as manufacturers, retailers and social organizations, the Government have framed the policy commencing from 1st July, 2012. It is submitted that while the earlier rules prescribed auction as the method of selection, the present rules prescribed drawal of lots. When the licence fee is fixed and there are more than one applicant for a particular shop, drawal of lots is a well accepted and fair method of selection. Under the present rules, Form A-1 is a declaration by the applicant that he will abide by the rules, Form A-2 is an affidavit declaring the extent of property, its value etc., and the applicant is also required to submit a surety bond and affidavit in Form A-2(S). Apart from the above, the applicant is required to submit Earnest Money Deposit

to the tune of 10% of the annual licence fee subject to a maximum of Rs. 5 lakhs. If the applicant is successful, he is required to deposit 1/3rd of the licence fee on the same day and the remaining two-thirds is secured in the form of Bank Guarantees. Every precaution is taken to safeguard government revenue. The Rules provide the individual applicants to prove their financial propriety by showing their property and solvency and the respondents have taken measures that the licensees adhere to the Rules so as not to defraud the government in any manner. If any complaints are received, they will be investigated in accordance with law. The respondents insist on furnishing of PAN card of all the licensees and Tax Deduction at Source is given effect to on all transactions at the time of issue of liquor; therefore, there is neither secrecy nor any attempt to conceal any information.

5. It is further submitted that out of 6596 shops notified, 5768 shops were allotted to different applicants on 26.6.2012 by way of drawal of lots and for the remaining 828 shops, a re-notification was issued on 26.6.2012 and the same will be allotted on 3.7.2012.

PIL No. 230 of 2012

6. Andhra Pradesh Girijana Abhyudaya Sangham, Bhadrachalam is the petitioner in this writ petition. The petitioner prays for a writ of mandamus declaring the action of the respondents in issuing the rules and notifications in respect of shops situated in Scheduled Areas without taking into account the interests of the Scheduled Tribes and without consultation of the respective Gram Sabhas as illegal, arbitrary and irrational and for a consequential direction to respondent No. 2 to exercise the power conferred upon him under proviso to Rule 12(6)(a) for withdrawing the shops in the Scheduled Areas from the selection process.

7. According to Rule 3 of the Rules, in case of shops located in Scheduled Areas, the right to sell liquor by shops shall be granted to local Scheduled Tribe candidates and in case there is no such applicant available, it shall be granted to any other Scheduled Tribe candidate, and if not, to any other candidate. In respect of licences to be issued in Scheduled Areas, as per the proviso to Rule 24 of the Rules, the concerned Gram Sabha should give its consent to grant such licence in the light of the provisions contained in Andhra Pradesh Panchayats Extension to Scheduled Area (PESA) Rules, 2011. Under the present notification, 31 shops are situated in the Scheduled Area in Warangal District. Similar notifications are issued in respect of other Districts where Scheduled Areas are in existence. The selection of shops is without any consultation with the respective Gram Sabhas as required under the Rules. The licences are sought to be issued to any other Scheduled Tribe in Andhra Pradesh irrespective of his residence. If no Scheduled Tribe candidate is available, the licence can be granted to any other candidate as per Rule 3(2) of the Rules. Thus, non-tribals have a chance to obtain licences to run a shop in a Scheduled Area and, therefore, the rule is opposed to the concept of protection sought to be provided in the Scheduled Areas under the Andhra Pradesh Scheduled Areas Land Transfer Regulation 1 of

1959 (Regulation 1 of 1959). Further, the Rules do not permit a Tribal Society, Firm or a Company to participate in the selection of candidates for grant of licence.

8. It is further submitted that in view of the provisions contained in Regulation 1 of 1959 as amended by Regulation 1 of 1970, no land is expected to be purchased or transferred in favour of any person other than Scheduled Tribe. In view of the prohibition, there cannot be any value for the immovable property and no other Tribal is capable of purchasing land at a price more than Rs. 10,000/- per acre. In respect of shops situated in Scheduled Areas, the licence fee is Rs. 34 lakhs and the applicant has to furnish EMD at 10% of the licence fee in addition to Rs. 25,000/- towards application fee. It is impossible for a Scheduled Tribe candidate to pay EMD and application fee at a time and also the licence fee of Rs. 34 lakhs; therefore, though licence is intended to be granted in favour of Scheduled Tribes, no facility is sought to be provided for securing necessary amount. Earlier, Co-operative Societies were organized to execute work contracts etc., whenever Scheduled Tribes were intended to be provided with licence to do such works, and necessary funds for establishment of Co-operative Societies and investment were being provided. Similar arrangement is not provided in the Rules for grant of licences to Scheduled Tribes residing in the Scheduled Areas. There is no purpose in granting licences to the Scheduled Tribes without seeking to provide necessary investment. Thus, the Rules are in contravention of the special laws intended for protection of the Scheduled Tribes residing in the Scheduled Areas.

9. It is submitted that respondent No. 2 should exercise power under the proviso to Rule 12(6)(a) of the Rules and withdraw all the shops in the Scheduled Areas from the selection process and take necessary steps for establishment of shops in consultation with the Gram Sabhas and the government for providing necessary investment and also to examine the steps to grant licences to Co-operative Societies.

10. A counter affidavit has been filed by respondent Nos. 1 and 2 inter alia stating that due care has been taken by the Government to preserve the identity of tribals in the Scheduled Areas. It is submitted that the District Collectors have been requested to obtain the consent of the Gram Sabhas for licensing of liquor vends as early as on 19.5.2012 keeping in view the provisions of the Andhra Pradesh Panchayat Extension to Scheduled Area (PESA) Rules, 2011. Licences will be issued in the Scheduled Areas only after receipt of consent from the respective Gram Sabhas.

11. It is submitted that the local Scheduled Tribe candidates will be considered in the first place for grant of licence. If the local Scheduled Tribe candidates are not available, the licence will be granted to any other Scheduled Tribe, and if no Scheduled Tribe candidates are available, then only the licence will be granted to others. Though the Gram Sabha gives consent, the shop cannot be established if no Scheduled Tribe candidates are available. Therefore, it is not correct to say

that the rights of the Scheduled Tribes are violated.

12. It is also submitted that tribal societies are also eligible to obtain liquor vend according to the Rules and they will be given preference. The tribals in the Scheduled Areas can form into societies, mobilize funds, obtain loans etc. and organize themselves to obtain licence for liquor vend as per the Rules. There are no valid grounds for respondent No. 2 to withdraw the shops situated in Scheduled Areas from the selection process.

13. In pursuance of the directions of the Government, notifications were issued on 19.6.2012 inviting applications from local Scheduled Tribes and others for grant of licence in 167 villages covering nine districts. Out of 167 villages, 154 Gram Sabhas have given their consent. 741 applications have been received and 143 shops have been allotted on 26.6.2012 according to the policy of the Government.

PIL No. 235 of 2012

14. In this writ petition, the petitioner, who is a businessman, has challenged the constitutional validity of Rule 12(6)(d) of the Rules and G.O.Ms. No. 390, Revenue (Excise-II) Department, dated 18.6.2012 stipulating the method of selection for grant of licence for selling liquor by drawal of lots as being illegal, unreasonable, arbitrary, unconstitutional and violative of Article 14 of the Constitution of India.

15. The petitioner submits that the Government conducted auction for the years 2010-2012 for awarding licences to run liquor shops and this enabled the Government to earn more revenue. However, the Government discarded the method of auction and instead introduced the system of drawal of lots. Under the impugned G.O., the licence fee has been fixed based on the population of the area where the shop is located. The petitioner has also given figures in respect of Visakhapatnam District where the highest bid was for Rs. 4.72 Crores for the year 2010-2012. But, according to the impugned G.O., the licence fee has been fixed at Rs. 1.04 Crore per shop where the population is above 20 lakhs, thus, there is no application of mind in fixation of the licence fee. According to the petitioner, the impugned G.O. is in violation of the settled principle that a duly publicized auction conducted fairly and impartially is the best method for alienation of public resources. The impugned Rules and the G.O. defeat the object of the Andhra Pradesh Excise Act, 1968.

16. It is further submitted that grant of liquor licences by way of lottery amounts to gambling and results in selection by pure chance. The impugned Rules and the G.O. defeat the claims of genuine applicants who would have been entitled to grant of licences for running liquor shops. Allocation of licences by way of lots does not in any way prevent the formation of syndicates. There are several syndicates which are bidding for the licence of excise shops at multiple places. The petitioner, therefore, prayed for a writ of mandamus declaring Rule 12(6)(d) of the Rules as illegal and to set aside the impugned G.O.

17. Respondent No. 2 has filed a counter affidavit denying the averments made by the petitioner. It is submitted that the petitioner has not shown his bonafides in filing the writ petition. The writ petition does not espouse any public interest.

18. It is stated that owing to the sensitivity of the subject and the responsibility thrust on the Government by the Directive Principles of State Policy, the Government have chosen not to continue the auction system in the new excise policy for 2012-13, as it gave rise to the retailers selling the liquor more than the maximum retail price, forming into cartels and disregarding the interests of the consumers. Therefore, the Government constituted a Cabinet sub-committee which recommended the present policy. The averment of the petitioner that there will be reduction in the revenue of the State on account of the present system is not correct, and any loss expected will be made good by suitable changes in the tax system.

19. It is further stated that the figures given by the petitioner in respect of Visakhapatnam District are not correct. Some of shops have recorded abnormal increase in the auction and they have become commercially unviable and the bidders resorted to violations. In order to overcome these shortcomings, the Government have made a thorough exercise on all aspects and evolved the present excise policy. The licence fee has been fixed taking into account the population in the villages, towns, municipalities and municipal corporations, and the expenses like shop rent, electricity charges, transport charges, salaries to employees, interest on capital etc.

20. While substantiating the method of drawal of lots, it is stated that the licensee will be able to do his business without resorting to malpractices as he pays the fixed licence fee in this system. Section 17 of the Andhra Pradesh Excise Act empowers the Government to grant licences by adopting different methods of selection.

21. In paragraph 8 of the counter affidavit, the allegation of the petitioner that selection of liquor licences by drawal of lots amounts to gambling is denied. It is stated that the drawal of lots gives a fair opportunity to all prospective licensees and the same cannot be equated with gambling. In this process, all are equally treated. The drawal of lots is conducted by the District Collector in the presence of all the applicants in a transparent manner.

22. It is further submitted that every care has been taken to secure public interest and the Rules provide safeguards in several aspects such as ensuring government revenue, prescribing proper procedure for drawal of lots etc., and, therefore, the allegation of the petitioner that the Rules are contrary public interest is not correct. By virtue of the present policy, the scope of forming syndicates does not arise.

Submissions and Conclusions

23. It is submitted on behalf of the petitioner in PIL No. 223 of 2012 that the

Rules do not provide for verification of an applicant's antecedents, social status and financial wherewithal and the limited scrutiny mandated in the Rules results in huge fraud on the State. The licence granted by the Government by lottery is nothing but an arbitrary action. He has relied on the judgment of the Supreme Court in the case of B.R. Enterprises Vs. State of U.P. and Others, and submitted that lottery is nothing but gambling. According to him, the State has indulged in gambling in granting the licence by way of lottery, therefore, cannot be sustainable in the eye of law. It is further submitted that the issue of fixation of licence fee is also justiciable and the Court can examine the same. According to him, it is the duty of the State to collect more revenue. He further drew our attention to the earlier policy of issuing licences in 2010-12 where the licences were granted on the basis of auction. According to him, in the auction system, the amount of licence fee collected was much more than that of today by way of holding lottery. It is further his case that more money would have been fetched by way of auction. Therefore, according to him, the method adopted by the State in granting licence by holding lottery is nothing but arbitrary and without taking steps to earn more money.

24. It has been submitted on behalf of the petitioner in PIL No. 230 of 2012 that the licences in the Scheduled Areas cannot be granted to any other candidate except tribal people.

25. The learned Advocate General on behalf of the State submitted that the policy has been decided and rule has been amended to hold lottery to keep transparency in the matter of grant of licence. A Cabinet subcommittee was constituted to go into the excise policy and the said committee fixed the licence fee. He further submitted that in the counter affidavit, respondent No. 2 has specifically averred that the licence is being granted in the Scheduled Areas only to the tribals, therefore, there is no question of violation of any law or rule. He further submitted that 143 shops have already been allotted to tribals in nine districts of the State in accordance with law. According to him, Gram Sabhas have given their consent and that is the reason why steps have been taken to grant licences. The allegation that the licences have been granted without consulting the respective Gram Sabhas is without any material. He further submitted that all possible steps were taken in the matter of grant of licences. He further drew our attention to Article 243D of the Constitution and submitted that all steps have been taken in the matter in question. He further submitted that the amount which was collected for 2010-12 is for two years. Furthermore, it was observed that after getting the licence, the auctioneers were selling their licence to other persons. The amount of licence fee which was fixed earlier was for two years and that is the reason why the rule has been amended by the State. He further contended that enough safeguards have been taken in granting licence. He also drew our attention to Rule 6 with regard to declaration, Rules 8 to 10 and Rule 12 and Rule 16 of the said Rules and submitted that licence fee has been secured and then and then only licence is being granted to the intending traders. Earlier, since the liquor was sold at a higher price by the

auctioneers, the Government decided to amend the rules and introduce the system of granting licence by lottery.

26. The learned Advocate General has further submitted that the decisions relied upon by the petitioners in *Cooverjee B. Bharucha Vs. The Excise Commissioner and the Chief Commissioner, Ajmer and Others*, *Khoday Distilleries Ltd. and Others Vs. State of Karnataka and Others*, and *M/s. Ugar Sugar Works Ltd. Vs. Delhi Administration and Others*, support the case of the State and the case reported in *Secretary to Govt., Tamil Nadu and Another Vs. K. Vinayagamurthy*, has no application to the facts of the case. Accordingly, he submitted that there is no arbitrariness in granting licence through lottery and the petitions should be dismissed.

27. We have heard the learned counsel for the parties and perused the Rules under challenge, particularly Rule 12 thereof. To appreciate the contention of the petitioner in PIL No. 223 of 2012 that the Rules do not provide for verification of antecedents of the applicant etc., we may notice Rule 6 of the Rules. Under the said rule, an applicant for grant of a licence shall submit a declaration in Form A-1 that he shall abide by the Rules, which, in turn, shall be attested by the Tahsildar or Gazetted Officer of the Prohibition and Excise Department; a notarized affidavit in Form A-2 containing the particulars of the applicant's own immovable property for an amount not less than Rs. 5 lakhs or bank guarantee for the equal amount; and a surety bond in Form-A2(S), besides a declaration in Form A-3 that he is not disqualified under any of the provisions of Rule 8. The same Forms are specified in Rule 12, which an applicant has to submit along with the application together with application fee and earnest money deposit.

28. A perusal of Rule 6 read with Rule 12 of the Rules makes it clear that sufficient safeguards have been taken to verify the financial and social status of the applicant. The Forms specified in Rule 6, in our opinion, sufficiently take care of the financial and social status of an applicant for grant of licence.

29. As regards the contention that grant of licence by lottery amounts to gambling, it is to be noted that u/s 17 of the Andhra Pradesh Excise Act, 1968, the Government is entitled to grant licence to the public to sell liquor in such manner as it thinks fit, subject to the rules made in that behalf. In exercise of the powers conferred by Section 72 read with Sections 17, 28 and 29 of the Andhra Pradesh Excise Act, the Governor of Andhra Pradesh made the impugned Rules. The Government issued G.O. Ms. No. 390, Revenue (Excise-II) Department, dated 18.6.2012, whereby it formulated the new Excise Policy in relation to disposal of retail liquor shops during the excise year 2012-13. Under the said G.O., the method of selection for grant of shop licences shall be by drawal of lots.

30. The law on the subject relating to right to carry on trade or business in liquor is well settled. No citizen has a fundamental right to carry on trade in liquor. The State can create a monopoly either in itself or in the agency created by it for the

manufacture, possession, sale and distribution of liquor and also sell the licences to the citizens for the said purpose. The State can adopt any mode of selling the licences for trade or business with a view to maximize its revenue so long as the method adopted is not discriminatory.

31. It is the case of the State that in the system of auction, the retailers were selling the liquor more than the maximum retail price putting the consumers at loss and, therefore, the Government constituted a Cabinet sub-committee to look into the excise policy, and the sub-committee recommended the present policy after making deliberations with all stake holders. Further, the auctioneers were selling the licence to other persons at a higher price. Therefore, the Government have chosen to discontinue the system of auction in the new excise policy.

32. In the system of lottery, as rightly contended by the State, the licensee will be able to do his business without resorting to malpractices, as he pays the fixed licence fee. Drawal of lots gives an opportunity to all the prospective licensees and the same cannot be equated with gambling. Lots are drawn by the District Collector in the presence of all the applicants in a transparent manner.

33. Furthermore, it is on record that there has been fraudulent manipulation of records concerning the auction of some wine shops in some districts of the State. It has also come on record that a huge amount of benami transactions had taken place in the liquor trade and persons who are below the poverty line were bidding in lakhs and crores of rupees and getting licences to run liquor shops. Auctions were being conducted without any verification of the bidders and the State Government was awarding contracts to persons who are below the poverty line without investigating their source of income. Therefore, the Government have chosen to introduce the method of lottery.

34. In the given facts, the decision relied upon by the learned counsel for the petitioners in *B.R. Enterprises v. State of U.P.* has no application.

35. In our view, it is not within the domain of the courts to embark upon an enquiry as to whether a particular public policy is wise or whether better public policy can be evolved. The Government of Andhra Pradesh formulated the Excise Policy for the year 2012-13 after making a thorough exercise in the matter and it is the policy decision of the Government to grant licences by drawal of lots. In *Ugar Sugar Works Ltd. v. Delhi Administration* (supra), the Supreme Court, while dealing with a policy decision of the Delhi Administration in respect of liquor trade, observed:

16. In view of this settled position of law, any argument impugning the policy decision of the State Government, as reflected in the impugned notification, based upon Article 19(1)(g) is totally out of place and merits outright rejection and we have no hesitation in doing so most emphatically.

17. Faced with the settled legal position that there is no fundamental right to trade in liquor, learned counsel for the petitioner did not pursue the argument

based on Article 19(1)(g) to question the competence of Delhi Administration to take a policy decision with regard to regulating trade in liquor and laying down various regulatory measures and in our opinion rightly so.....

36. In *Khoday Distilleries Ltd. v. State of Karnataka* (supra), a Constitution Bench of the Supreme Court, after analyzing the various decisions, observed:

The State can adopt any mode of selling the licences for trade or business with a view to maximize its revenue so long as the method adopted is not discriminatory.

37. The allegation of the petitioner in PIL No. 230 of 2012 that non-tribals have a chance to obtain licences to run liquor shops in Scheduled Areas and Rule 3 of the Rules is opposed to the concept of protection sought to be provided in the Scheduled Areas cannot be sustained, as it has come on record that 143 shops have been allotted according to the policy of the government after obtaining consent from Gram Sabhas.

38. The next question which arises for our consideration is whether the petitioner in PIL No. 223 of 2012 and the petitioner in PIL No. 235 of 2012, who are a lawyer and a businessman respectively have locus standi to file these petitions. Public interest litigation which has now come to occupy an important field in the administration of law should not be abused by unscrupulous elements. There must be real and genuine public interest involved in the litigation and it should not be invoked by a person or body of persons to further his or their personal causes. Courts of justice should not be allowed to be polluted by unscrupulous litigants by resorting to the extraordinary jurisdiction. A person acting bona fide and having sufficient interest will alone have a locus standi and can approach the Court to wipe out violation of fundamental rights and genuine infraction of statutory provisions, but not for personal gain or private profit or political motive or any oblique consideration. These aspects were highlighted by the Supreme Court in a catena of decisions. In *Dattaraj Nathuji Thaware Vs. State of Maharashtra and Others*, the Supreme Court while rejecting the locus of the petitioner, who was a lawyer, to file petition in public interest, observed as under:

A person acting bona fide and having sufficient interest in the proceedings of public interest litigation will alone have a locus standi and can approach the court to wipe out violation of fundamental rights and genuine infraction of statutory provisions, but not for personal gain or private profit or political motive or any oblique consideration. A writ petitioner who comes to the Court for relief in public interest must come not only with clean hands like any other writ petitioner but also with a clean heart, clean mind and clean objective. The court must not allow its process to be abused for oblique considerations by masked phantoms who monitor at times from behind. Some persons with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives, and try to bargain for a good deal as well as to enrich themselves. Often they are actuated by a desire to win notoriety or cheap

popularity. The petitions of such busybodies deserve to be thrown out by rejection at the threshold, and in appropriate cases with exemplary costs.

39. In a recent case reported in Villianur Iyarkkai Padukappu Maiyam Vs. Union of India (UOI) and Others, the Supreme Court, after noticing the decision in BALCO Employees Union (Regd.) Vs. Union of India and Others, observed that the only ground on which a person can maintain a PIL is where there has been an element of violation of Article 21 or human rights or where the litigation has been initiated for the benefit of the poor and the underprivileged who are unable to come to the court due to some disadvantage.

40. We are, therefore, of the view that the petitioners in PIL No. 223 and 235 of 2012 have no locus standi and cannot maintain these petitions.

41. In the facts and circumstances of the case, we are not inclined to strike down the Excise Policy for the year 2012-13 in relation to grant of licences to run liquor shops and the impugned Rules at the behest of the petitioners merely because it has been urged that a different policy would have been fairer or wiser or more scientific or logical. In matters relating to economic issues, the Government has, while taking a decision, right to "trial and error" as long as both trial and error are bona fide and within the limits of authority. For testing the correctness of a policy, the appropriate forum is Parliament and not the Courts. Normally, there is always a presumption that the governmental action is reasonable and in public interest and it is for the party challenging its validity to show that it is wanting in reasonableness or is not informed with public interest. This burden is a heavy one and it has to be discharged to the satisfaction of the Court by proper and adequate material. The Court cannot lightly assume that the action taken by the Government is unreasonable or against public interest because there are large number of considerations, which necessarily weigh with the Government in taking an action. For the above reasons, we see no ground to entertain these petitions. They are accordingly dismissed.