

(2025) 11 MEG CK 1792
In the Meghalaya High Court
Case No : Writ Petition (C) No. 463 Of 2024

Rishan Pariat

APPELLANT

Vs

State Of Meghalaya & Ors

RESPONDENT

Date of Decision : 11-11-2025

Acts Referred:

Meghalaya Excise Act, 1910 — Section 28
Meghalaya Excise Rules, 1910 — Rule 191

Citation : (2025) 11 MEG CK 1792

Hon'ble Judges : H. S. Thangkhiew, J

Bench : Single Bench

Advocate : H.L. Shangreiso, T. Dkhar, N. Syngkon, J.N. Rynjah, H.R. Nath

Final Decision : Disposed Of

Judgement

H. S. Thangkhiew, J

1. The brief facts of the case are that the writ petitioner holds a bar license, which was granted by the respondents No. 2, 3 and 4, issued on 22.12.2023, and renewed on 16.05.2024 under the Meghalaya Excise Act, after meeting all statutory requirements, including obtaining of an NOC from the respondent No. 6 i.e. the Dorbar Shnong of Nongkhyriem, through the Headman. However, the respondent No. 6, thereafter cancelled the NOC which resulted in the writ petitioner being unable to lift the liquor from the bonded warehouse, inspite the bar license being valid. Aggrieved with the action of the respondent No. 6, which the petitioner contends has resulted in disruption of his business operation and has caused financial losses, he is before this Court by way of this instant writ petition seeking appropriate directions.

2. Mr. H.L. Shangreiso, learned Senior counsel assisted by Mr. T. Dkhar, learned counsel for the petitioner submits that the respondent No. 6, to the setting up of the bar had issued a No Objection Certificate dated 31.07.2023, in favour of the writ petitioner, conveying the No Objection of the Executive Committee of the

Dorbar Shnong. Thereafter, he submits a rental agreement was executed on 02.08.2023, with the proprietor of the building, where the bar was to be situated, at a monthly rate of Rs.30,000/- only, and the respondent No. 5 (Inspector of Excise) had also conducted an enquiry on 04.09.2023, with regard to the application of the writ petitioner for grant of license or 'IMFL' On License. The respondent No. 4, he submits then vide letter dated 22.12.2023, conveyed the approval for grant of license for a period upto 31.03.2024, subject to the observance of the rules and payment of the prescribed fees, to which the petitioner complied, and on 22.03.2024 deposited the required fees vide Challan on 23.02.2024. However, he submits when the writ petitioner failed to receive the permit for lifting the liquor, and on his enquiry, was informed by the respondent No. 3 vide letter dated 01.10.2024, that in order to operate the bar, he was to revisit the respondent No. 6, and co-ordinate with them for conducting a fresh public meeting for local public opinion.

3. The petitioner he submits thereafter, came to learn that inspite of the issuance and renewal of license being as per prescribed procedure and due process followed, the NOC had been recalled by the respondent No. 6, for the reason that it had been issued hastily. The learned Senior counsel submits that though the petitioner requested for a review of the decision, and a meeting was also held with the respondents No. 1-5, on 05.11.2024, the respondent No. 6, had conveyed their stand that its members were not willing to revoke the cancellation of the NOC. This situation he submits, persisted and even on the request of the Additional Deputy Commissioner, East Khasi Hills, Shillong for a joint inspection cum meeting, with regard to the NOC for the bar, the respondent No. 6 categorically conveyed that the decision taken to revoke the NOC was non-negotiable. The petitioner's rights he submits, due to the arbitrary action of the respondent No. 6, has been violated, and he has been made to suffer substantial financial loss. As such, he prays that directions be issued to the State respondents to issue and renew the permit to allow the petitioner to lift the liquor from the bonded warehouse for retail sale in his bar premises.

4. From the side of the State respondents, Mr. N. Syngkon, learned GA has submitted that the residents of Nongkhyriem, had submitted a complaint, opposing the establishment of a bar by the licensee, and that similar petitions had also been submitted to the Chief Secretary, Government of Meghalaya, on the ground that the Headman of the locality had initially issued the NOC arbitrarily without the consent and approval of the General Village Dorbar, which is why directions were issued to conduct fresh meetings and inspection with regard to the matter. It is then submitted that inspite of the enquiry, the official respondents were informed by the respondent No. 6, that the decision taken in the Dorbar held on 25.05.2024, was to oppose the establishment of the bar of the writ petitioner, and this was why the official respondents kept the matter of issuance of the lifting permit in abeyance. It is also submitted, that the decision to withhold the permit does not stem from any procedural oversight by the official respondents, but from the need to address the concern raised by the

respondent No. 6, responsibly, inasmuch as, despite best efforts and the holding of multiple meetings between the complainants and the writ petitioner, the respondent No. 6, was adamant not to allow the operation of the bar of the petitioner in the locality.

5. Learned GA further submits that though an NOC from a local authority is not mandatory, it is a prerequisite for engaging local public opinion and that it is more than a procedural formality, as it acts as a safeguard ensuring that businesses like bars operate with the community's support. Reference has then been made to the Meghalaya Excise Act and Rules, as adapted from the Assam Excise Act, 1910, wherein it is submitted Section 28 provides for the ascertainment of local public opinion before grant of license, and Rule 191 stipulates that opening, shifting, amalgamation and closure of any licensed premises shall not be granted sanction, unless it has been satisfactorily established by local enquiry that the proposed action is necessary in interest of the public. It is submitted that since formal complaints had been lodged by the respondent No. 6 and the local public, the permit has thus been kept pending, keeping in mind the maintenance of law and order and public safety. The petitioner it is contended cannot allege discrimination, inasmuch as, there are no other retail vends of foreign liquor or bars currently in operation in the said location.

6. Mr. H.R. Nath, learned counsel on behalf of the respondent No. 6 has submitted that though the NOC was initially issued in respect of the writ petitioner establishment and another bar in the locality, however, due to the serious objections raised by the residents before the respondent No. 2, vide a complaint dated 13.05.2024, with a copy to the answering respondents, the same was placed before the Annual General Dorbar of the locality held on 25.05.2024, which took the decision to revoke the NOC granted to the writ petitioner. The learned counsel submits that in view of the decision taken by the General Dorbar, the Executive Committee of the Village Dorbar was duty bound to cancel the NOC, considering the public opinion and for the maintenance of peace and tranquility in the locality.

7. In reply, to the submissions of the respondents, it has been countered by the learned Senior counsel on behalf of the writ petitioner, that the license had been granted after due process had been followed and, in this regard, while seeking the NOC, the respondent No. 6, had directed for the deposit of Rs. 5 Lakhs as fees, for issuing the NOC, which was duly complied with by the writ petitioner, who had transferred the said amount vide cheque in favour of the respondent No. 6 on 31.07.2023. He submits that the said amount was then withdrawn by the said respondent and the NOC issued. The learned Senior counsel thus submits that notwithstanding any other circumstance, the fact that remains is the license was issued after all the conditions had been satisfied including the NOC, as per the mandate of Section 28 and Rule 191 of the Meghalaya Excise Act and Rules, and as such, the action of the respondent No. 6 in cancelling the NOC,

is arbitrary and unreasonable.

8. In the course of hearing this matter, this Court by order dated 06.08.2025, on the issue of grant of NOC, had allowed the prayer of the respondent No. 6, to produce the minutes of the Dorbar, wherein the decision had been taken to grant the NOC to the writ petitioner. However, on 01.09.2025, the counsel for the respondent No. 6 submitted that there were no recorded proceedings of deliberations or resolution, for grant of NOC to the writ petitioner, but however, the resolution taken to withdraw the NOC had been recorded and accordingly, the proceedings of the Dorbar held on 27.05.2024, were produced before the Court, which showed that the decision was taken based on a complaint of the residents of the locality on 13.05.2024. A perusal of the complaint dated 13.05.2024, annexed to the affidavit of the State respondents, lodged by some residents of the locality, however reflects that a copy of the same was not marked to the writ petitioner, and only a copy of the minutes of the meeting dated 05.11.2024, chaired by the Additional Deputy Commissioner, East Khasi Hills, Shillong, along with other official respondents, and the representative of the respondent No. 6, was given, wherein the decision to recall the NOC was taken.

9. In these circumstances, this Court is therefore to examine as to whether any rights of the writ petitioner have been violated or whether a mandamus can issue to direct the respondents to allow the lifting of the liquor, and the petitioner to operate his business as per the license granted. Concisely put, the issue crystallizes only on the point of the grant and recall of the NOC by the respondent No. 6. Though this Court had made an attempt to obtain the proceedings or records which culminated in the decision to grant NOC, which is evidenced by the acceptance of a fee to the tune of Rs.5 Lakhs, by the respondent No. 6, the same not being made available, has hampered this Court from arriving at a clear decision on the question of whether public opinion had been sought. No doubt, proceedings to recall the NOC by the Dorbar have been made available, however, in the absence of the records of the contrary decision, the decision arrived at by the Dorbar therefore, in the considered view of this Court, needs to be revisited.

10. In the context of the necessity of public opinion in such matters, it would be necessary to refer to the provisions of the Meghalaya Excise Act (Assam Excise Act of 1910) as adopted by Meghalaya, which has laid down procedural safeguards in the issue of licenses for retail liquor shops. The relevant Sections and Rules are reproduced hereinbelow:

"Section: 28. Ascertainment of local public opinion.-Before the licenses are granted in any year of the retail sale of any intoxicant, the Collector shall take measures, in accordance with rule to be made by the State Government in this behalf, as may best enable him to ascertain local public opinion in regard to the licensing and location of shops."

"Rule: 191. The opening, shifting, amalgamation and closure of any licensed

premises shall be done by the District Collector with the previous sanction of the State Government. Such opening, shifting, amalgamation and closure shall not be granted- (a) unless it has been satisfactorily established by local enquiry that the proposed action is necessary in the interest of public; and (b) until any objections, which may have been filed on the subject have been considered by the District Collector.

Objections from local bodies and from the following persons will be considered-

(i) In the case of Corporation, Municipality or Town Committee areas- The Corporation, Municipality or Town Committee concerned to which such proposal relates;

(ii) In the case of areas not situated in a Corporation, Municipality or Town Committee-

(a) The Gaon Panchayat concerned.

(b) The owners or occupiers of the neighbourhood of the premises involved.

(c) Managers of the tea estates or factories in which more than 100 persons are employed:

Provided that the whole or any part of the jurisdiction of the Gaon Panchayat or land owned or occupied by tea estate or factory is situated within 5 Kms. of the site of the shop or any of the shops concerned."

11. A perusal of the above noted provisions, thus clearly mandates the ascertainment of local public opinion, with regard to licensing and location of retail establishments, as also, the opening, shifting or closure, wherein objections from local bodies are to be considered and consent obtained before grant of license. In the instant case, the mandate of the above noted provisions had been complied with in the grant of the bar license to the writ petitioner, which however, due to later events has resulted in the same being kept in abeyance on the ground of recall of the NOC. It is noted that in the recall of the NOC, the writ petitioner was not afforded any opportunity to put up his side of the story, and was only informed on his query about the developments, which has now resulted in the suspension of business activities, apart from causing heavy financial losses.

12. Thus, as observed earlier it is only on the objection of the community that has resulted in the deadlock. However, it must be kept in mind that trade in liquor is not an enforceable fundamental, or absolute right and the right to trade is considered a privilege granted by the State under relevant law, as the same is a State subject and not an inherent right of a citizen. Any trade in liquor therefore, can only be carried out under the specific terms and conditions of a license granted by the State respondents, which are subject to stringent control.

13. In the totality of the circumstances therefore, taking into consideration the facts discussed hereinabove, moreover, the legitimate expectation of the writ

petitioner to operate his business on the license being obtained after due process, notwithstanding the settled position that there is no vested right involved in the trade of alcohol, this Court to balance the equities, deems it fit to direct as follows:

(i) The respondents Nos. 2-5, under the chairmanship of the Deputy Commissioner, East Khasi Hills, Shillong or his nominee, shall convene a meeting with the respondent No. 6, and the writ petitioner to re-visit the cancellation of the NOC especially with regard to the opinion of the residents in this regard.

(ii) The same shall be by convening a Village Dorbar, on a suitable date arrived at in the meeting aforementioned, wherein the entire facts i.e. the initial grant of NOC, the payment of fees for the same and the issue of re-issuing the NOC shall be deliberated upon and a decision arrived at. Further, the writ petitioner is also given an option to attend the same, if necessary to put across his point of view, before the residents.

(iii) The entire exercise shall be completed within a period of 6(six) weeks from the date the official respondents are served with a copy of this order.

(iv) On the said exercise being completed, the Respondents 2 to 5 shall then on the outcome thereof, act, or issue orders accordingly with regard to the permit of the writ petitioner.

14. The abovenoted directions, have been passed by this Court, in view of the fact that the writ petitioner, was in possession of a license duly issued, in accordance with law, which however, for the reasons aforementioned, has resulted in a stalemate, leaving him remedy less. It is also expected that when the Respondent No. 6, in considering this aspect with the community or local residents, keep these facts in mind.

15. Accordingly, this writ petition in terms of the directions and observations made hereinabove stands closed and is disposed of.