

WP(C) 2580/2016
BEFORE
HON'BLE MR. JUSTICE HRISHIKESH ROY

The petitioner is a licensee of an IMFL On Shop and the concerned wine bar is located at Batamari near Bhumuraguri at Sonitpur District near to NH 37-A. The re-location of the petitioner's IMFL On Shop as was ordered by the Excise Authorities is challenged in this proceeding. Under the impugned order, the licensee is required to shift the liquor shop to a distance of 200 metres from the midpoint of National Highway, on account of the amended provision of Rule 183(2) of the Assam Excise Rules, 1945 (hereinafter referred to as the Excise Rules), incorporated through the Government Notification dated 30.12.2014.

Mr. S.C. Biswas, the learned counsel submits that the amended provision of the Excise Rules can't be retrospectively applied, for directing shifting of an old liquor shop. However, Mr. P.N. Goswami, the learned Standing Counsel for the Excise Department refers to the provision of Rule 184 of the Excise Rules to contend that the location of existing liquor shops are required to be periodically re-examined every 3 years to ascertain as to whether the IMFL shop, conform to the Excise Rules in respect of the site. Therefore, it is argued that the power of the authority to order shifting of the shops can also be traced back to Rule 184 of the Excise Rules.

Having regard to the above projection and the requirement of the licence to conform to the provisions of the Excise Rules at all times, the petitioner is permitted to apply for re-location of the shop so that the same may conform to the requirement of Rule 183(2) of the Excise Rules. The fresh location for the IMFL shop may be finalized by the Commissioner with discussion with the licensee and it will be verified whether the present location of the wine bar is beyond the distance of 200 meters from the midpoint of the National Highway. The licence holder must shift the shop as per the Commissioner's decision. The limited operation of the IMFL shop at the present location is thus permitted for 8 (eight) weeks and in the meantime, the ordered exercise should be completed for shifting the shop.

With the above order, this case is disposed of at the motion stage with the consent of both sides. If the petitioner is aggrieved by the decision of the Commissioner, he is at liberty to re-approach the Court.