

GAHC010203252022



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : I.A.(Civil)/3004/2022

KUNJA DEVI

W/O- SRI PUSPA NATH, R/O- VILL.- BAMUNBARI (SARUPHOLIA), P.O.
SOLAGURI, P.S. JAMUGURIHAT, DIST. SOITPUR, ASSAM-784180 AND
PROPRIETRESS OF -KONENG BAR-CUM- RESTURANT (IMFL ON SHOP), AT
TUMUKI GERUAGAON, P.O. AND P.S. TEZPUR, DIST. SONITPUR, ASSAM

VERSUS

THE STATE OF ASSAM AND 7 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, EXCISE DEPARTMENT, DISPUR, GUWAHATI-
781006.

2:THE COMMISSIONER OF EXCISE
ASSAM
HOUSEFED COMPLEX
DISPUR
GUWAHATI-781006.

3:THE DEPUTY COMMISSIONER AND DISTRICT MAGISTRATE
SONITPUR
TEZPUR.

4:THE ADDITIONAL DEPUTY COMMISSIONER (EXCISE)
SONITPUR
TEZPUR.

5:THE SUPERINTENDENT OF EXCISE
SONITPUR
TEZPUR
ASSAM

6:THE INSPECTOR OF EXCISE
TEZPUR SADAR CIRCLE SONITPUR
ASSAM

7:THE SECRETARY
3 NO. TUMUKI GAON PANCHAYAT
P.O. TUMUKI
DIST. SONITPUR
ASSAM-784101.

8:THE SUPERINTENDENT OF POLICE
DIST.- SONITPUR
TEZPUR
ASSA

Advocate for the Petitioner : MR. B D KONWAR SR. ADV.

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 30-09-2022

Heard Ms. D. Brahma, learned counsel for the applicant. Also heard Mr. R.R. Gogoi, learned standing counsel, Excise Department, Govt. of Assam.

This I.A. has been filed with a prayer to correct certain error occurring in the order dated 21-09-2022 passed by this Court in W.P.(C) No. 4779/2022.

By referring to the impugned order Ms. Brahma submits that the distance criteria is not applicable in case of the writ petitioner/ applicant in this case but the same was an issue in the connected matter, viz. W.P.(C) No. 5002/2022, which came up for consideration before this Court along with W.P.(C) No. 4779/2022 filed by the applicant.

As such, inadvertently the order dated 21-09-2022 requires the authorities to review the decision of closure of the applicant's IMFL 'ON' shop after carrying out distance verification. The instant I.A. has, therefore, been filed seeking modification/ clarification of the above aspect of the matter.

Mr. R.R. Gogoi, learned standing counsel, Excise Department, Assam has submitted in his usual fairness that the distance criteria was relevant in the connected matter, i.e. W.P.(C) No. 5002/2022 but not in the writ petition filed by the present applicant/ petitioner.

Taking note of the submissions made by learned counsel for both the sides, this I.A. is being disposed of by clarifying that while reviewing the order of closure of the IMFL 'ON' shop operated by the present applicant/ writ petitioner, distance criteria would not come into play.

I.A. stands disposed of.

JUDGE

GS

Comparing Assistant