

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

**WP(C) No. 2490/2023
CM No. 5894/2023**

**Jeet Kumar, Aged 35 Years,
S/O Shri Raj Kumar,
R/O Ward No. 3, Near Hanuman Mandir,
Tehsil Billawar, Kathua.**

.....Petitioner(s)

Through :- Mr. Virender Bhat, Advocate.

v/s

**1. UT of Jammu & Kashmir
Through Commissioner Secretary Excise,
Jammu.**

.....Respondent(s)

2. Excise Commissioner, Jammu.

Through :-

CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE

**ORDER
29.09.2023**

1. Petitioner through the medium of this petition filed under Article 226 of the Constitution of India, seeks a direction to the respondents, in the nature of Mandamus to consider permission to have business premises in order to operationalize liquor vend (JKEL-2) temporary license No. 1779/203/2023-24 dated 17.04.2023 in Pathwal-A Panchayat, Tehsil Hiranagar, Kathua at a fresh location, at a shop rented out to him by one-Romesh Chander Sharma.

2. It is being stated that the respondents vide Notification dated 28.03.2023, invited E-bids for grant of liquor license for various locations in terms of the Excise Policy 2023-24, which is to remain in force, w.e.f., 01.04.2023 to 31.03.2024; that pursuant to said Notification, the petitioner participated in the bidding process for the location of Pathwal-A Panchayat, Tehsil Hiranagar, Kathua and got selected in the said bidding process; that he being the highest bidder, was advised to deposit 100% bid amount within five

days and he deposited the entire bid amount as per the instructions of the department, thereafter he was granted temporary Licence No. 1779/203/2023-24 dated 17.04.2023; that he applied for No Objection Certificate from the Department for opening of wine shop at Pathwal-B, Dayalachak, the same was rejected by the Deputy Commissioner, Kathua, vide No. DCK/SQ/2023-24/77-85 dated 09.08.2023, on the ground that the wine shop is located in State land and no individual is authorized to occupy the State land.

3. It is being further pleaded that the petitioner arranged for a fresh location within Panchayat Pathwal-A Dayalachak, Tehsil Hiranagar, District Kathua, with one-Romesh Chander Sharma and he submitted a representation/application dated 10.08.2023 to the respondents in this regard, which has not been considered till date; that the premises offered for shifting from the current premises, does fall within the prohibited area for establishment of licensed sale and falls under the jurisdiction of "local authority" as per the direction of Hon'ble Supreme Court in case titled, *"Arrive Safe/Society of Chandigarh Vs. Union Territory of Chandigarh & Anr."* in SLP (Civil) No. 10243/2017 on 11.07.2017 read with Civil Appeal No. 12164-12166/2016; that the respondents be directed to allow the petitioner to operate his Bar/Wine Shop at the new location, which is located/situated within local authority, without any hindrance or obstruction.

4. Learned counsel for the petitioner submits that the petitioner shall be satisfied, if his petition at this motion stage, is disposed of, directing respondent No. 2 to consider the plea in this petition raised by the petitioner.

5. In view of the submission urged at the Bar and having regard to the matter, this writ petition is *disposed of* with a direction to the respondents to consider the claim of the petitioner with regard to change of location /premises of wine shop to a fresh location within Panchayat Pathwal-A Dayalachak, Tehsil

Hiranagar, District Kathua and to operate his liquor vend (JKEL-2) licence within the local authority, in accordance with law.

6. This Court has not expressed any opinion, on the merits of petitioner's case. The plea of the petitioner shall be considered on its own merits, in accordance with law. The aforesaid exercise be carried out by the respondents within a period of four weeks from the date of receipt of a certified copy of this order alongwith complete paper book of this petition.

7. The writ petition alongwith pending application(s) is, accordingly, *disposed of*.

(M A Chowdhary)
Judge

JAMMU
29.09.2023
Ram Krishan

