

AFR

Neutral Citation No. - 2025:AHC-LKO:13676

Court No. - 7

Case :- WRIT - C No. - 2218 of 2025

Petitioner :- Vijay Pratap Singh And 5 Others

Respondent :- State Of U.P. Thru. Addl. Chief Secy./Prin. Secy.
Excise Civil Sectt. Lko. And 3 Others

Counsel for Petitioner :- Manoj Kumar Dwivedi, Akhilesh Kumar
Mishra, Vikrant Dwivedi

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT - C No. - 2245 of 2025

Petitioner :- Satendra Kumar And 3 Others

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Excise Lko. And
3 Others

Counsel for Petitioner :- D.P. Dutt Tiwari, Piyush Kumar Mishra

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT TAX No. - 130 of 2025

Petitioner :- Smt. Urmila Yadav

Respondent :- State Of U.P. Thru. Special Secy. Excise Anubhag-2
Govt. Of U.P. Lko. And 3 Others

Counsel for Petitioner :- Ashish Kumar Singh

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT TAX No. - 133 of 2025

Petitioner :- Shravan Kumar Pandey

Respondent :- State Of U.P. Thru. Prin. Secy. Excise Deptt. Govt.
Lko And 4 Others

Counsel for Petitioner :- Anurag Kumar Singh

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT TAX No. - 135 of 2025

Petitioner :- Akhilesh Singh And 24 Others

Respondent :- State Of U.P. Thru. Prin./Addl. Secy. Deptt. Of Excise,
Lko. And 5 Others

Counsel for Petitioner :- Shobhit Mohan Shukla, Aviral Singh, Manoj

Kumar Chaurasiya

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT TAX No. - 136 of 2025

Petitioner :- Sanjeev Kumar Singh And 29 Others

Respondent :- State Of U.P. Thru. Prin./Addl. Chief Secy. Deptt. Of Excise U.P. Lko. And 3 Others

Counsel for Petitioner :- Shobhit Mohan Shukla,Aviral Singh

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT TAX No. - 137 of 2025

Petitioner :- Sunita Jaiswal

Respondent :- State Of U.P. Thru. Special Secy. Excise Lko. And 3 Others

Counsel for Petitioner :- Rohit Jaiswal,Adarsh Pratap Singh,Rajneesh Kumar

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT TAX No. - 138 of 2025

Petitioner :- Sachin Jaiswal

Respondent :- State Of U.P. Thru. Special Secy. Excise Anubhag-2 Lko. And 3 Others

Counsel for Petitioner :- Rohit Jaiswal,Adarsh Pratap Singh

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT TAX No. - 140 of 2025

Petitioner :- Mukesh Kumar Jaiswal And 2 Others

Respondent :- State Of U.P. Thru. Special Secy. Excise Anubhag-2 Govt. Of U.P. Lko. And 3 Others

Counsel for Petitioner :- Rohit Jaiswal,Adarsh Pratap Singh,Mohit Gupta

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT TAX No. - 141 of 2025

Petitioner :- Chandra Prakash Tripathi And Another

Respondent :- State Of U.P. Thru. The Prin. Secy. Deptt. Of Excise Lko. And 3 Others

Counsel for Petitioner :- Amarendra Pratap Singh

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT TAX No. - 142 of 2025

Petitioner :- Chandra Prakash Tripathi

Respondent :- State Of U.P. Thru. The Prin. Secy. In The Deptt. Of Excise And 3 Others

Counsel for Petitioner :- Amarendra Pratap Singh

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT TAX No. - 143 of 2025

Petitioner :- Chandra Prakash Tripathi

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Excise Lko. And 3 Others

Counsel for Petitioner :- Amarendra Pratap Singh

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT TAX No. - 144 of 2025

Petitioner :- Ankur Jaiswal And 3 Others

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Of Excise U.P. Lko. And 3 Others

Counsel for Petitioner :- Amarendra Pratap Singh

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT TAX No. - 145 of 2025

Petitioner :- Rajeev Pratap Singh And 3 Others

Respondent :- State Of U.P. Thru. Addl. Chief Secy./Prin. Secy. Excise Lko. And 3 Others

Counsel for Petitioner :- P.K. Singh Bisen

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT TAX No. - 146 of 2025

Petitioner :- Seeta Saran Mishra And Another

Respondent :- State Of U.P. Thru. Special Secy. Excise Anubhag Ii U.P. Lko. And 3 Others

Counsel for Petitioner :- Prem Shanker Pandey, Abhishek Pandey

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT TAX No. - 147 of 2025

Petitioner :- Mahipat Singh And 41 Others

Respondent :- State Of U.P. Thru. Special Secy. Excise Anubhag 2 Lko. And 14 Others

Counsel for Petitioner :- Sheo Prakash Singh, Manish Singh Chauhan

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT - C No. - 2219 of 2025

Petitioner :- Anita Singh And Another

Respondent :- State Of U.P. Thru. Addl. Chief Secy./Prin. Secy. Excise Lko. And 5 Others

Counsel for Petitioner :- Manoj Kumar Dwivedi, Akhilesh Kumar Mishra, Anurag Pandey

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT - C No. - 2220 of 2025

Petitioner :- Bhagvati Prasad Dixit And 12 Others

Respondent :- State Of U.P. Thru. Addl. Chief Secy./Prin. Secy. Excise Civil Sectt. Lko. And 3 Others

Counsel for Petitioner :- Manoj Kumar Dwivedi, Anil Kumar, Bishlendra Prasad

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT - C No. - 2228 of 2025

Petitioner :- Shyam Bhajan

Respondent :- State Of U.P. Thru. Addl. Chief Secy./Prin. Secy. Excise Civil Sectt. Lko. And 3 Others

Counsel for Petitioner :- Pramod Kumar Pandey, Prashant Sharma, Sanjay Kumar Verma

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT - C No. - 2232 of 2025

Petitioner :- Vijay Prakash And 10 Others

Respondent :- State Of U.P. Thru. Addl. Chief Secy./Prin. Secy. Excise Lko. And 3 Others

Counsel for Petitioner :- Manoj Kumar Dwivedi, Akhilesh Kumar Mishra, Vikrant Dwivedi

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT - C No. - 2237 of 2025

Petitioner :- Preeti Jaiswal And 10 Others

Respondent :- State Of U.P. Thru. Addl. Chief Secy. / Prin. Secy.
Excise Lko And 11 Others

Counsel for Petitioner :- Manoj Kumar Dwivedi, Akhilesh Kumar
Mishra, Vijay Kumar Tripathi

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT - C No. - 2246 of 2025

Petitioner :- Vijay Laxmi Suman

Respondent :- State Of U.P. Thru. Special Secy. Excise Deptt. Lko.
And 3 Others

Counsel for Petitioner :- Dharendra Kumar Mishra, Arjun Prasad
Mishra, Hari Om Pandey

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT - C No. - 2247 of 2025

Petitioner :- Devendra Paratap Singh And 3 Others

Respondent :- State Of U.P. Thru. Addl. Chief Secy./ Prin. Secy.
Excise Lko And 3 Others

Counsel for Petitioner :- P.K. Singh Bisen

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT - C No. - 2248 of 2025

Petitioner :- Prem Narayan Pandey And 23 Others

Respondent :- State Of U.P. Thru. The Addl. Chief Secy. / Prin. Secy.
Excise And 11 Others

Counsel for Petitioner :- Manoj Kumar Dwivedi, Vijay Kumar
Tripathi

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT - C No. - 2217 of 2025

Petitioner :- Deep Kamal Jaiswal And 5 Others

Respondent :- State Of U.P. Thru. Addl. Chief Secy./Prin. Secy.
Excise Civil Sectt. Lko. And 5 Others

Counsel for Petitioner :- Manoj Kumar Dwivedi, Anil
Kumar, Bishlendra Prasad

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT - C No. - 2249 of 2025

Petitioner :- Dharmendra Pratap Singh And 12 Others

Respondent :- State Of U.P. Thru. Special Secy. Excise Anubhag 2 U.P. Lko. And 11 Others

Counsel for Petitioner :- Shahid Salam, Kavita Mishra, Saad Mohd Aslam, Shahbaz Salam

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT - C No. - 2250 of 2025

Petitioner :- Susheela Jaiswal And 2 Others

Respondent :- State Of U.P. Thru. Special Secy. Excise Anubhag- 2 Lko. And 5 Others

Counsel for Petitioner :- Shahid Salam, Kavita Mishra, Shahbaz Salam

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT - C No. - 2251 of 2025

Petitioner :- Ranu Singh And 5 Others

Respondent :- State Of U.P. Thru. Special Secretary Excise Anubhag- 2 Lko. And 7 Others

Counsel for Petitioner :- Shahid Salam, Kavita Mishra, Shahbaz Salam

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT - C No. - 2252 of 2025

Petitioner :- Bechu Lal Kashyap And 23 Others

Respondent :- State Of U.P. Thru. Addl. Chief Secy./Prin. Secy. Excise, Lko. And 5 Others

Counsel for Petitioner :- D.P. Dutt Tiwari, Piyush Kumar Mishra

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT - C No. - 2254 of 2025

Petitioner :- Bechu Lal Kashyap And 8 Others

Respondent :- State Of U.P. Thru. The Addl. Chief Secy./Prin. Secy. Excise, Lko. And 5 Others

Counsel for Petitioner :- D.P. Dutt Tiwari, Piyush Kumar Mishra

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT - C No. - 2255 of 2025

Petitioner :- Bhawan Prasad

Respondent :- State Of U.P. Thru. Special Secy. Excise Anubhag 2
Lko And 3 Others

Counsel for Petitioner :- Pradeep Singh Somvanshi

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT - C No. - 2258 of 2025

Petitioner :- Satendra Kumar And 2 Others

Respondent :- State Of U.P. Thru. Special Secy. Excise Anubhag 2
Lko. And 3 Others

Counsel for Petitioner :- Shahid Salam, Kavita Mishra, Sandeep
Kumar Ojha, Shahbaz Salam

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT TAX No. - 148 of 2025

Petitioner :- Badri Prasad And 3 Others

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Excise Deptt.
Govt. Of U.P. Lko. And 3 Others

Counsel for Petitioner :- Birendra Pratap Singh, Abhishek Singh

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT TAX No. - 149 of 2025

Petitioner :- Sudha Singh

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Excise Deptt.
Lko. And 3 Others

Counsel for Petitioner :- Birendra Pratap Singh, Abhishek Singh

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT TAX No. - 150 of 2025

Petitioner :- Seema

Respondent :- State Of U.P. Thru. Prin./Addl. Chief Secy. Deptt. Of
Excise Govt. Of U.P. Lko. And 3 Others

Counsel for Petitioner :- Shiv Kumar Yadav, Mata Prasad Chaturvedi

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT TAX No. - 151 of 2025

Petitioner :- Anup Kumar Singh

Respondent :- State Of U.P. Thru. Prin. Secy. Excise Deptt. Lko. And 3 Others

Counsel for Petitioner :- Dharmendra Pratap Singh, Akhil Pratap Singh, Anuj Kumar Gupta, Dharmendra Kumar Singh

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT TAX No. - 152 of 2025

Petitioner :- Suresh Pratap Singh And 10 Others

Respondent :- State Of U.P. Thru. Special Secy. Excise Lko. And 3 Others

Counsel for Petitioner :- Rohit Jaiswal, Brij Mohan Singh, Mohit Gupta, Rajneesh Kumar

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT TAX No. - 153 of 2025

Petitioner :- Mausam Jaiswal And 10 Others

Respondent :- State Of U.P. Thru. Special Secy. Excise Anubhag-2 Lko. And 3 Others

Counsel for Petitioner :- Rohit Jaiswal, Adarsh Pratap Singh, Brij Mohan Singh, Mohit Gupta

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT TAX No. - 154 of 2025

Petitioner :- Gaurav Jaiswal And 9 Others

Respondent :- State Of U.P. Thru. Prin. Secy. Addl. Chief Secy. Deptt. Of Excise Lko. And 11 Others

Counsel for Petitioner :- Rohit Jaiswal, Brij Mohan Singh, Mohit Gupta

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT TAX No. - 155 of 2025

Petitioner :- Indal Prasad And 17 Others

Respondent :- State Of U.P. Thru. Prin. Secy. Excise Deptt. Lko. And 5 Others

Counsel for Petitioner :- Abhishek Singh, Akhand Kumar Pandey, Dharmendra Kumar Singh

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT TAX No. - 156 of 2025

Petitioner :- Jagdish Bahadur Singh

Respondent :- State Of U.P. Thru. Social Secy. Excise Lko. And 3 Others

Counsel for Petitioner :- Mohan Singh, Kuldeep Singh

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT - C No. - 2268 of 2025

Petitioner :- Hanuman Prasad Dwivedi

Respondent :- State Of U.P. Thru. Addl. Chief Secy./Prin. Secy. Excise, Lko. And 3 Others

Counsel for Petitioner :- Virendra Mishra

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT - C No. - 2270 of 2025

Petitioner :- Ram Singh And Another

Respondent :- State Of U.P. Thru. Special Secy. Excise Anubhag-2 And 3 Others

Counsel for Petitioner :- Bhuvan Dwivedi, Onkar Singh

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT - C No. - 2272 of 2025

Petitioner :- Jagdamba Pandey

Respondent :- State Of U.P. Thru. Addl. Chief Secy./ Prin. Secy. Excise Lko And 3 Others

Counsel for Petitioner :- Rama Niwas Pathak, Prabhat Dwivedi

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT - C No. - 2288 of 2025

Petitioner :- Jitendra Kumar And 15 Others

Respondent :- State Of U.P. Thru. Addl. Chief Secy. /Prin. Secy. Excise U.P. Lko. And 5 Others

Counsel for Petitioner :- Manoj Kumar Dwivedi, Akhilesh Kumar Mishra, Arun Kumar Dwivedi, Pradeep Kumar Shukla

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT - C No. - 2291 of 2025

Petitioner :- Raj Kumari Singh

Respondent :- State Of U.P. Thru. Addl. Chief Secy. / Prin. Secy.
Excise Lko And 3 Others

Counsel for Petitioner :- Rajeev Narayan Pandey, Niteesh Kumar

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT - C No. - 2292 of 2025

Petitioner :- Nitin Jaiswal And 2 Others

Respondent :- State Of U.P. Thru. Addl. Chief Secy./Prin. Secy.
Excise Lko. And 3 Others

Counsel for Petitioner :- Manjusha Kapil

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT - C No. - 2294 of 2025

Petitioner :- Narendra Kumar Dubey And 3 Others

Respondent :- State Of U.P. Thru. Special Secy. Excise Anubhag-2
And 4 Others

Counsel for Petitioner :- Lakshmana Singh, Raj Kumar Singh

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT - C No. - 2295 of 2025

Petitioner :- Rajendra Jaiswal

Respondent :- State Of U.P. Thru. Addl. Chief Secy./ Prin. Secy.
Excise Lko And 3 Others

Counsel for Petitioner :- Manjusha Kapil

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT - C No. - 2298 of 2025

Petitioner :- Himashu Sharma And 18 Others

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Excise Lko. And
9 Others

Counsel for Petitioner :- Manoj Kumar Dwivedi, Akhilesh Kumar
Mishra, Bishlendra Prasad

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT TAX No. - 157 of 2025

Petitioner :- Harabansh Kumar

Respondent :- State Of U.P. Thru. Prin./Addl. Chief Secy. Deptt. Of Excise Lko. And 3 Others

Counsel for Petitioner :- Ajay Srivastava, Vijay Srivastava

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT TAX No. - 158 of 2025

Petitioner :- Manish Jaiswal And 6 Others

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Excise Deptt. Govt. Of U.P. Lko. And 5 Others

Counsel for Petitioner :- Anand Mani Tripathi, P.R.S. Bajpai

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT TAX No. - 159 of 2025

Petitioner :- Subhash Chand Patel

Respondent :- State Of U.P. Thru. Prin. Secy. Excise Deptt. Lko. And 4 Others

Counsel for Petitioner :- Arpit Verma, Ram Suphal, Shivanshu Goswami

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT - C No. - 2310 of 2025

Petitioner :- Anjani Kumar Singh And Another

Respondent :- State Of U.P. Thru. Addl. Chief Secy. /Prin. Secy. Excise U.P. Lko. And 3 Others

Counsel for Petitioner :- Ashish Kumar Singh

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT - C No. - 2313 of 2025

Petitioner :- Vishnu Dev Singh And 3 Others

Respondent :- State Of U.P. Thru. Special Secy. Excise Anubagh - 2 Lko. And 3 Others

Counsel for Petitioner :- Surendra Singh, Brijendra Kumar Verma

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT - C No. - 2317 of 2025

Petitioner :- Amit Kumar Tripathi And 5 Others

Respondent :- State Of U.P. Thru. Prin. Secy. Excise Deptt. Govt. Of

U.P. Lko. And 4 Others

Counsel for Petitioner :- Avinash Singh Vishen, Abhay Dwivedi, Nishant Pandey, Shishir Raj, Vedant Srivastava

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT TAX No. - 161 of 2025

Petitioner :- Rajneesh Patel

Respondent :- State Of U.P. Thru. Prin. Secy. Excise Deptt. Lko. And 4 Others

Counsel for Petitioner :- Arpit Verma, Shivanshu Goswami

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT TAX No. - 162 of 2025

Petitioner :- Ram Suresh

Respondent :- State Of U.P. Thru. Prin. Secy. Excise Deptt. Lko. And 4 Others

Counsel for Petitioner :- Arpit Verma, Shivanshu Goswami

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT TAX No. - 163 of 2025

Petitioner :- Sadhna Singh And 2 Others

Respondent :- State Of U.P. Thru. Prin. Secy. Excise Deptt. Lko. And 3 Others

Counsel for Petitioner :- Ajeet Pratap Singh, Abhishek Singh, Akhand Kumar Pandey, Anuj Kumar Gupta

Counsel for Respondent :- C.S.C.

AND

Case :- WRIT TAX No. - 164 of 2025

Petitioner :- Rishabh Verma

Respondent :- State Of U.P. Thru. Prin. Secy. Excise Deptt. Lko. And 4 Others

Counsel for Petitioner :- Shivanshu Goswami, Arpit Verma

Counsel for Respondent :- C.S.C.

Hon'ble Pankaj Bhatia, J.

1. Heard Shri Manoj Kumar Dwivedi, Shri Shobhit Mohan Shukla, Shri Anurag Kumar Singh, Shri Rohit Jaiswal, Shri Abhishek

Singh and Shri Avinash Singh, learned counsel appearing for the petitioners and Dr. L.P. Mishra, learned counsel appearing for the State assisted by Shri Anil Pratap Singh, learned Addl. Advocate General, Shri Shailendra Kumar Singh, learned CSC, Shri Pankaj Khare, learned A.C.S.C., Shri Tushar Verma, learned A.C.S.C., Shri Badrish Tripathi, learned A.C.S.C., Shri Abhishek Kumar Pandey, A.C.S.C. and Shri Dheerendra Singh, learned Standing Counsel for the respondent – State.

2. Present writ petitions have been filed challenging the Government Order dated 06.02.2025 specifically 5.11 issued by respondent no.1.

There is also a challenge to the consequential order dated 06.02.2025 issued by respondent no.2 and the notices dated 13.02.2025 issued by respondent no.3 which provides for settlement of all country liquor shops through e-lottery process including the shop of the petitioners as contained in Annexures – 1 to 3.

A further mandamus has been sought commanding respondent no.3 to exclude the shop of the petitioners for the settlement through e-lottery for the Excise Year 2025 – 26.

It is further prayed that any other writ which this Court may deem appropriate may be issued.

3. The facts that arise from all the petitions are that the petitioners were running liquor shops by virtue of the licenses granted in their favour in terms of the policy which subsisted prior to passing of the policy dated 06.02.2025. It is claimed that most of the petitioners were running the shops since the year 2018 which were granted to them through e-lottery process and were renewed on a yearly basis on the basis of the demands and fees as demanded which were enhanced from time to time. It is further stated that in terms of the license granted in the year 2018 and renewed subsequently from year to year, the last such license in favour of the petitioners was to subsist till

31.03.2025 and there was a legitimate expectation that in terms of the prescriptions contained in the rules, an option of renewal shall be conferred and shall be given to the petitioners, however, the State Government through Government Order dated 06.02.2025 framed the excise policy. In terms of the said excise policy, the manner of allocation and grant of shops was radically modified and it was provided that all the liquor shops which were under the control of the State Government and are regulated by virtue of the U.P. Excise Act and the Rules framed thereunder shall be amended and shall be given through a fresh e-lottery to be drawn as prescribed in the government policy. Certain other prescriptions were also noticed in the said government policy. The said policy for the sake of brevity is being referred to 'New Excise Policy, 2025'.

4. In sum and substance of the arguments is that Condition No.5.11 of the said policy takes away the rights of consideration for renewal which were vested in favour of the petitioners in terms of various rules and to that extent it is proposed to be argued that the policy is bad in law. The other contentious issue as raised is with regard to Clause 5.15.2.2(1)(ga) wherein it has been prescribed that all the stocks which are lying with the licensee shall be taken on 01.04.2025 and shall be kept in the custody of the Excise Commissioner which shall be destroyed by them under their guidance and videography, and no amount of compensation shall be payable to the licensee.

5. In nutshell argument raised by the petitioners are in respect of these two clauses which are said to be offending.

6. The first argument raised is that the policy decision is contrary to Rule 5 of the Rules which have been framed for regulating the sale of various liquor shops. The second argument raises is that the circular which is in the form of a Government Order cannot override the rules which specifically provide for consideration and right of renewal

which I shall advert to subsequently. It is further argued that as the rules have not been amended, a challenge was raised before the Allahabad High Court on the ground that without amending the respective rules in respect of various shops, the Government Order has been floated. It is argued that in a huge haste, to overcome the said legal lacunae, the rules have been modified on 03.03.2025 by issuance of a publication. In terms of the said rules with regard to liquor sale through Model Shops were amended, the rules in respect of country liquor was also modified. It is stated that after the modification of the said rules, the interim order which was passed by the Allahabad High Court in Writ Tax No.748 of 2025 was vacated and the parties were given the liberty to challenge their rights.

7. Attacking the said amendment in the rules w.e.f. 03.03.2025, the submission of learned counsel for the petitioners is that the said rules cannot be applied retrospectively. He argues that the policy was framed on 06.02.2025 through the Government Order and thereafter, applications were invited for the participants and as such, the law as was applicable on the date of inviting the tender through e-lottery should be the relevant law and thus, the amendments effected w.e.f. 03.03.2025 do not cure the lacunae which has occurred by the State. It is further argued that the petitioners cannot be deprived of the legal rights which vest in them by virtue of the rules through an illegal policy which in the present case is Government Order dated 06.02.2025. It is further proposed to be argued that the State has to act as a welfare State to uphold the majesty and rule of law, which is absent in the present case. It is further argued by virtue of the provisions contained in Clause 5.15.2.2(1)(ga), the right of property stands affected adversely and the petitioners have been deprived of their right to property without any law which is also violative of Art. 300A of Constitution of India. It is further argued that the State in its policy has specifically excluded one kind of shop known as U.P. Excise (Settlement of Licenses for Premium Retail Vends of Foreign

Liquor) Rules, 2020 and to that extent, the policy of the State is discriminatory insofar as they have taken policy in respect of certain kind of shops only whereas the premium retail vends have been exempted from the said policy decision which, according to the petitioners, is arbitrary and illegal. It is further argued that only two rules have been amended in respect of two kind of shops and there are no amendment with regard to the other shop noticeably the shops of retail of *Bhang* as well as the other retail shops which include the shop of vending of Beer.

8. It is further argued by one of the counsel(s) appearing for the petitioners that in terms of the rules it was prescribed that after the expiry of the period of license, if the licensee desires, the State Government may take steps for renewal on the basis of the material available. In the present case, the said right of 'desire' expressed and conferred by virtue of the rules has been taken away in terms of the policy. It is further argued that the policy is violative of Rule 5. He further argues that although there is no fundamental right under Art. 19(6) of the Constitution, the policy still has to satisfy the test of Art. 14 of the Constitution which is miserably failing in the present policy. I shall advert to the judgments referred by the parties subsequently.

9. Starting from the said argument as recorded above, learned counsel for the State was called.

10. Dr. L.P. Mishra, learned counsel for the State assisted by the other counsels argues that firstly there is no right to carry trade in liquor as has been held by the Supreme Court. He further argues that the distinction drawn with regard to the premium retail vends of foreign liquor and allegations of violation of Art. 14 of Constitution on that ground merits rejection on account of sole reason that the said shops are a separate category and no parity can be claimed by the petitioners who have a license in different category of shops. He further argues that separate rules governed with regard to the sale of

the foreign kinds of liquor and thus, the claim of parity is not justified. He further argues that there is no specific challenge to Clause 1(ga) of Para 5.15.2.2 and thus, the petitioners cannot argue on the said clause. He further argues that the argument that only two set of rules have been modified/amended on 03.03.2025 is for the reason that the category of shops have been reduced which were five in number in earlier policy and now they are four in number. He argues that the amendment with regard to two set of shops, as recorded above, were published, however, with regard to the other set of shops, no rules have been framed so far which shall be done by the State Government in terms of the prescriptions contained in the Excise Act. He further argues that with regard to the claim that the petitioners would be deprived of their right to property, he has given statement that earlier with regard to destruction of the liquor and the erstwhile rules which were prevalent shall be considered by the State Government as per the directions that may be issued by this Court and a rational decision shall be taken at an appropriate level by the appropriate authority. He argues that he is unable to make a statement on that count as the policy decision in question was ratified by the Cabinet and without approval of the Cabinet, no decision/statement can be given at this stage. He, however, undertakes that till a fresh decision is taken by Cabinet at an appropriate level, the stocks after the expiry of the license shall not be destroyed and shall be kept which shall be subject to further decision which shall be taken by the State Government at an appropriate level in accordance with law.

11. He also places reliance on Section 36-A of U.P. Excise Act which shall be dealt with subsequently. He also argues that the amendment carried out in the rules on 03.03.2025 have not been challenged in the present writ petitions. He further argues that the submission of counsel for the petitioners that law as prevalent on the issuance of the advertisement would prevail, is contrary to the settled principles, as the law which applies on the date of the issuance of the

licenses would be governing the rights in between the parties and to that extent, the petitioners are wrong in arguing the same.

12. In rejoinder, learned counsel for the petitioners apart from reiterating the submissions as have been recorded above, have argued that once the license is granted, the rights start accruing in favour of the petitioners and the said rights can be taken away only in accordance with law and whatever benefits flow from the licenses granted should be extended to the petitioners which have been denied by means of the policy. It is further proposed to be argued that the petitioners were continuing since the year 2018 onward and had made heavy investments and the State Government has come out with a policy abruptly which will lead severe losses to the petitioners. It is further argued that due to the fact that the licenses were renewed since the year 2018 on year to year basis, the petitioners have made huge investments and thus, there was a legitimate expectation that the licenses would be renewed this year also.

13. Dr. L.P. Mishra, learned counsel for the State countering the submission on the arguments of legitimate expectation argues that the legitimate expectation cannot be claimed against law and to that extent, the arguments merits rejection.

14. Learned the counsel for the State argues that the petitioners have also applied under the New Policy and they are estopped from challenging the Policy. Having taken the benefit of the said submissions, the counsel for the petitioner argues that merely because the petitioners have applied under the new Policy, they cannot be estopped from arguing on their vested right, which according to them vests by virtue of their rights in their favour.

15. Learned counsel for the petitioners in support of the contentions that they are not estopped from raising the plea, as argued by the counsel for the State, have placed reliance on Para 24 of the judgment of the Supreme Court in the case of ***Krishna Rai (dead) through***

Legal Representatives and Others vs. Banaras Hindu University;
(2022) SCC 713 which is as under:

“24. The case laws relied upon by the Division Bench would have no application in the facts of the present case as none of the judgments relied upon by the Division Bench laid down that principle of estoppel would be above law. It is settled principle that principle of estoppel cannot override the law. The manual duly approved by the Executive Council will prevail over any such principle of estoppel or acquiescence.”

16. The counsel for the petitioners placed reliance on the judgment in the case of ***Government of India vs. Vedanta Limited & Ors;*** **(2020) 10 SCC 1** to argue that the law as prevalent on the date of Public Policy would apply. In this context reliance is placed on para 106, which is as under :

*“106. The two Explanations in Section 48 begin with the words “For the avoidance of any doubt”. It cannot, however, be presumed to be clarificatory and retrospective, since the substituted Explanation 1 has introduced new sub-clauses, which have brought about a material and substantive change in the section. A new Explanation 2 has been inserted which states that the test as to whether there is a contravention with the fundamental policy of Indian law, shall not entail a review on the merits of the dispute. Since the amendments have introduced specific criteria for the first time, it must be considered to be prospective, irrespective of the usage of the phrase “for the removal of doubts”. Reliance is placed on the judgment of this Court in *Sedco Forex International Drill. Inc. v. CIT [Sedco Forex International Drill. Inc. v. CIT, (2005) 12 SCC 717]* wherein it was held that an Explanation if it changes the law, it cannot be presumed to be retrospective, irrespective of the fact that the phrases used are “it is declared” or “for the removal of doubts”. In *SsangYong Engg. & Construction Co. Ltd. v. NHAI [SsangYong Engg. & Construction Co. Ltd. v. NHAI, (2019) 15 SCC 131 : (2020) 2 SCC (Civ) 213]* this Court was considering the amendments made to Section 34, wherein two Explanations to Section 34 had been inserted, which are identically worded with the two Explanations to Section 48. In that case, a similar ground of retrospectivity had been urged. This Court held that since the Explanations had been introduced for the first time, it is the substance of the amendment which has to be looked at, rather than the form. Even in cases where “for avoidance of doubt”, something is clarified by way of an amendment, such clarification cannot have retrospective effect, if the earlier law has been changed substantially.”*

17. Before advertng to the factual submissions as recorded above, it is essential to notice that the excise under the State of U.P. is governed under the provisions of U.P. Excise Act, 1910; the powers and duties of the officers regulating are specified; the establishment

and control of the liquor shops is exclusively in the administration of the Excise Departments in the District; the import, export and transport is also regulated by virtue of Chapter III; and manufacture, possession and sale is governed by Chapter IV of the said act.

18. It is essential to notice Section 24 and Section 24A of the U.P. Excise Act. Section 24 grants an exclusive privilege of manufacture which can be granted by the State Government through the Excise Commissioner which is subject to the provisions of Section 31, which is quoted herein below:

"24. Grants of exclusive privilege of manufacture, etc.—
Subject to the provisions of Section 31, the Excise Commissioner may grant to any person a license for the exclusive privilege—

(1) of manufacturing or of supplying by wholesale, or of both, or

(2) of selling by wholesale or by retail, or

(3) of manufacturing or of supplying by wholesale, or of both, and of selling by retail, any country liquor or intoxicating drug within any local area."

19. Section 24A governs the right of the Excise Commissioner for grant of license or licenses for the exclusive or other privilege with regard to sale by retail at shops. Section 24A is quoted herein below:

"24-A. Grant of exclusive or other privilege in respect of foreign liquor.—*(1) Subject to the provisions of Section 31, the Excise Commissioner may grant to any person a license or licenses for the exclusive or other privilege,—*

(a) of manufacturing or of supply by wholesale, or of both; or

(b) of manufacturing or of supplying by wholesale, or of both and selling by retail; or

(c) of selling by wholesale (to wholesale or retail vendors); or

(d) of selling by retail at shops (for consumption 'on' or 'off' the premises or for consumption 'on' and 'off' the premises) any foreign liquor in any locality.

(2) The grant of license or licenses under clause (d) of sub-section (1) in relation to any locality shall be without prejudice to the grant of licenses for the retail sale of foreign liquor in the same locality in hotels and restaurants for consumption in their premises.

(3) Where more licenses than one are proposed to be granted under clause (d) of sub-section (1) in relation to any locality for the same period, advance intimation of the proposal shall be given to the prospective applicants for every such license.

(4) The provisions of Section 25, and proviso to Section 39 shall apply in relation to grant of a license for an exclusive or other privilege under this section as they apply in respect of the grant of a license for an exclusive privilege under Section 24.”

20. In terms of the powers conferred by virtue of Section 24 & 24A of the Excise Act, the State through the Excise Commissioner is empowered to control and regulate the sale etc., of the liquor shops.

21. Chapter VI of the said Act provides for grant of licenses, permits and passes which include the power to suspend or cancel the licenses. It is essential to notice Section 36-A of the Excise Act, which is as under:

"36-A. Bar to right of renewal and compensation—No person to whom a license has been granted under this Act shall have any claim to the renewal of such license or any claim for compensation on the determination or non-renewal thereof.”

22. In terms of the powers conferred by virtue of the Act, rules have been framed with regard to the sale in respect of various kind of liquors. In terms of the said statutory prescription and the rules framed, the petitioners were granted license. It is essential to notice that the rules which are applicable to various kind of liquor are known as U.P. Excise (Settlement of Licenses for Retail Sale of Beer) Rules, U.P. (Settlement of Licenses for Retail Sale of Country Liquor) Rules, U.P. Excise Settlement of License for Retail Shop of Foreign Liquor (Excluding Beer and Wine) Rules, and, U.P. Excise (Settlement of Licenses for Retail Sale of Wine), Rules which have been framed from time to time. The State Government also framed rules which are known as the U.P. Excise (Settlement of Retail Licenses for Model Shop of Foreign Liquor) Rules.

23. To test the first argument that the right of the petitioners of renewal is conferred by virtue of the Rules, vests in them as soon as they are granted license. To test the said argument, it is essential to notice Constitutional Bench Judgment of the Supreme Court in the case of *Khoday Distilleries Ltd. and Others vs. State of Karnataka*

and Others; (1995) 1 SCC 574, wherein the Supreme Court had the occasion to consider the rights to carry out trade in liquor, in contradistinction to the rights entrusted by virtue of Article 19 of the Constitution of India. The law as summarized by the Supreme Court is as under:

“60. We may now summarise the law on the subject as culled from the aforesaid decisions.

- (a) *The rights protected by Article 19(1) are not absolute but qualified. The qualifications are stated in clauses (2) to (6) of Article 19. The fundamental rights guaranteed in Article 19(1) (a) to (g) are, therefore, to be read along with the said qualifications. Even the rights guaranteed under the Constitutions of the other civilized countries are not absolute but are read subject to the implied limitations on them. Those implied limitations are made explicit by clauses (2) to (6) of Article 19 of our Constitution.*
- (b) *The right to practise any profession or to carry on any occupation, trade or business does not extend to practising a profession or carrying on an occupation, trade or business which is inherently vicious and pernicious, and is condemned by all civilised societies. It does not entitle citizens to carry on trade or business in activities which are immoral and criminal and in articles or goods which are obnoxious and injurious to health, safety and welfare of the general public, i.e., res extra commercium, (outside commerce). There cannot be business in crime.*
- (c) *Potable liquor as a beverage is an intoxicating and depressant drink which is dangerous and injurious to health and is, therefore, an article which is res extra commercium being inherently harmful. A citizen has, therefore, no fundamental right to do trade or business in liquor. Hence the trade or business in liquor can be completely prohibited.*
- (d) *Article 47 of the Constitution considers intoxicating drinks and drugs as injurious to health and impeding the raising of level of nutrition and the standard of living of the people and improvement of the public health. It, therefore, ordains the State to bring about prohibition of the consumption of intoxicating drinks which obviously include liquor, except for medicinal purposes. Article 47 is one of the directive principles which is fundamental in the governance of the country. The State has, therefore, the power to completely prohibit the manufacture, sale, possession, distribution and consumption of potable liquor as a beverage, both because it is inherently a dangerous article of consumption and also because of the directive principle contained in Article 47, except when it is used and consumed for medicinal purposes.*
- (e) *For the same reason, the State can create a monopoly either in itself or in the agency created by it for the manufacture, possession, sale and distribution of the liquor as a beverage and*

also sell the licences to the citizens for the said purpose by charging fees. This can be done under Article 19(6) or even otherwise.

- (f) For the same reason, again, the State can impose limitations and restrictions on the trade or business in potable liquor as a beverage which restrictions are in nature different from those imposed on the trade or business in legitimate activities and goods and articles which are res commercium. The restrictions and limitations on the trade or business in potable liquor can again be both under Article 19(6) or otherwise. The restrictions and limitations can extend to the State carrying on the trade or business itself to the exclusion of and elimination of others and/or to preserving to itself the right to sell licences to do trade or business in the same, to others.
- (g) When the State permits trade or business in the potable liquor with or without limitation, the citizen has the right to carry on trade or business subject to the limitations, if any, and the State cannot make discrimination between the citizens who are qualified to carry on the trade or business.
- (h) The State can adopt any mode of selling the licences for trade or business with a view to maximise its revenue so long as the method adopted is not discriminatory.
- (I) The State can carry on trade or business in potable liquor notwithstanding that it is an intoxicating drink and Article 47 enjoins it to prohibit its consumption. When the State carries on such business, it does so to restrict and regulate production, supply and consumption of liquor which is also an aspect of reasonable restriction in the interest of general public. The State cannot on that account be said to be carrying on an illegitimate business.
- (j) The mere fact that the State levies taxes or fees on the production, sale and income derived from potable liquor whether the production, sale or income is legitimate or illegitimate, does not make the State a party to the said activities. The power of the State to raise revenue by levying taxes and fees should not be confused with the power of the State to prohibit or regulate the trade or business in question. The State exercises its two different powers on such occasions. Hence the mere fact that the State levies taxes and fees on trade or business in liquor or income derived from it, does not make the right to carry on trade or business in liquor a fundamental right, or even a legal right when such trade or business is completely prohibited.
- (k) The State cannot prohibit trade or business in medicinal and toilet preparations containing liquor or alcohol. The State can, however, under Article 19(6) place reasonable restrictions on the right to trade or business in the same in the interests of general public.
- (l) Likewise, the State cannot prohibit trade or business in industrial alcohol which is not used as a beverage but used legitimately for industrial purposes. The State, however, can place reasonable restrictions on the said trade or business in the interests of the general public under Article 19(6) of the Constitution.

(m) *The restrictions placed on the trade or business in industrial alcohol or in medicinal and toilet preparations containing liquor or alcohol may also be for the purposes of preventing their abuse or diversion for use as or in beverage.”*

24. Similarly, the Supreme Court had the occasion to deal with the scope of judicial review in challenge to the Excise Policy under Article 226 in the judgment in the case of ***Ugar Sugar Works Ltd. vs. Delhi Administration and Others; (2001) 3 SCC 635*** wherein the Constitutional Bench Judgment was affirmed to hold that there is no fundamental right to carry out trade in liquor and the grounds to challenge were also very limited.

25. It is essential to notice the next judgment of the Supreme Court in the case of ***State of Kerala and Others vs. B. Surendra Das and others; (2015) 12 SCC 101*** wherein the view that no one has a fundamental right to trade in liquor was reaffirmed. It was also stated that the challenge to the Policy can be on a limited ground and one of the grounds available to challenge the Policy was violation of Article 14 of the Constitution of India.

26. It is also essential to notice the judgment of the Supreme Court in the case of ***Kuldeep Singh vs. Govt. of NCT of Delhi; (2006) 5 SCC 702*** wherein the Supreme Court had the occasion to consider that on account of the change of Policy, the huge investments made did not confer on the licensee any accrued or vested right so as to bar the government from changing the previous policy decisions. It is essential to notice paragraph 15 and 30 of the said judgment, which are as under:

“15. The appellants filed applications for grant of licence pursuant to the policy decision adopted by the State. They might have invested a huge amount, but did not thereby derive any accrued or vested right. The matter relating to grant of licence for dealing in liquor is within the exclusive domain of the State. If the State had the right to adopt a policy decision, they indisputably had a right to vary, amend or rescind the same. The effect of a policy decision taken by the State is to be considered having regard to the provisions contained in Article 47 of the Constitution of India as also its power of regulation and control in respect of the trade in terms of the provisions of the Excise Act.

30. Unless, therefore, an accrued or vested right had been derived by the appellants, the policy decision could have been changed.”

27. The counsel for the petitioners have also relied upon the judgment in the case of **Ugar Sugar Works Ltd. (supra)** and argued that the limited ground of challenge are available, as held in Paras 13 to 18, which are as under:

“13. That there is no fundamental right to trade in intoxicants, like liquor, has been conclusively held by this Court in *State of A.P. v. McDowell & Co.* [(1996) 3 SCC 709] where taking note of some of the earlier Constitution Bench decisions of this Court, the argument that a citizen of this country has a fundamental right to trade in intoxicant liquor was once again emphatically repelled. That issue is, thus, no longer *res integra*. The following observations of the Bench in *McDowell case* [(1996) 3 SCC 709] are educative: (SCC pp. 735-36, para 39)

“39. The contention that a citizen of this country has a fundamental right to trade in intoxicating liquors refuses to die in spite of the recent Constitution Bench decision in *Khoday Distilleries [Khoday Distilleries Ltd. v. State of Karnataka, (1995) 1 SCC 574]*. It is raised before us again. In *Khoday Distilleries [Khoday Distilleries Ltd. v. State of Karnataka, (1995) 1 SCC 574]* this Court reviewed the entire case-law on the subject and concluded that a citizen has no fundamental right to trade or business in intoxicating liquors and that trade or business in such liquor can be completely prohibited. It held that because of its vicious and pernicious nature, dealing in intoxicating liquors is considered to be *res extra commercium* (outside commerce). Article 47 of the Constitution, it pointed out, requires the State to endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and all drugs which are injurious to health. For the same reason, the Bench held, the State can treat a monopoly either in itself or in an agency created by it for the manufacture, possession, sale and distribution of liquor as a beverage. The holding is emphatic and unambiguous. Yet an argument is sought to be built upon certain words occurring in clauses (e) and (f) of the summary contained in para 60 of the decision. In these clauses, it was observed that creation of a monopoly in the State to deal in intoxicating liquors and the power to impose restrictions, limitations and even prohibition thereon can be imposed both under clause (6) of Article 19 or even otherwise. Seizing upon these observations, Shri Ganguly argued that this decision implicitly recognises that business in liquor is a fundamental right under Article 19(1)(g). If it were not so, asked the learned counsel, reference to Article 19(6) has no meaning. We do not think that any such argument can be built upon the said observations. In clause (e), the Bench held, a monopoly in the State or its agency can be created ‘under Article 19(6) or even otherwise’. Similarly, in clause (f), while speaking of imposition of restrictions and limitations on this business, it held that they can be imposed ‘both under Article 19(6) or otherwise’. The said words cannot be read as militating against the express propositions

enunciated in clauses (b), (c), (d), (e) and (f) of the said summary. The said decision, as a matter of fact, emphatically reiterates the holding in *Har Shanker* [*Har Shankar v. Dy. Excise and Taxation Commr.*, (1975) 1 SCC 737] that a citizen has no fundamental right to trade in intoxicating liquors. In this view of the matter, any argument based upon Article 19(1)(g) is out of place.”

14. In *Har Shankar v. Dy. Excise and Taxation Commr.* [*Har Shankar v. Dy. Excise and Taxation Commr.*, (1975) 1 SCC 737] Chandrachud, J. (as the learned Chief Justice then was) in para 53 of the judgment opined: (SCC p. 758)

“53. In our opinion, the true position governing dealings in intoxicants is as stated and reflected in the Constitution Bench decisions of this Court in *Balsara* case [*State of Bombay v. F.N. Balsara*, 1951 SCC 860 : AIR 1951 SC 318 : 52 Cri LJ 1361] , *Cooverjee* case [*Cooverjee B. Bharucha v. Excise Commr.*, AIR 1954 SC 220] , *Kidwai* case [*State of Assam v. A.N. Kidwai, Commr. of Hills Division*, 1957 SCR 295 : AIR 1957 SC 414] , *Nagendra Nath* case [*Nagendra Nath Bora v. Commr. of Hills Division*, AIR 1958 SC 398] , *Amar Chakraborty* case [*Amar Chandra Chakraborty v. Collector of Excise*, (1972) 2 SCC 442] and the *R.M.D.C.* case [*State of Bombay v. R.M.D. Chamarbaugwala*, AIR 1957 SC 699] , as interpreted in *Harinarayan Jaiswal* case [*State of Orissa v. Harinarayan Jaiswal*, (1972) 2 SCC 36] and *Nashirwar* case [*Nashirwar v. State of M.P.*, (1975) 1 SCC 29] . There is no fundamental right to do trade or business in intoxicants. The State, under its regulatory powers, has the right to prohibit absolutely every form of activity in relation to intoxicants — its manufacture, storage, export, import, sale and possession. In all their manifestations, these rights are vested in the State and indeed without such vesting there can be no effective regulation of various forms of activities in relation to intoxicants. In *American Jurisprudence*, Vol. 30 it is stated that while engaging in liquor traffic is not inherently unlawful, nevertheless it is a privilege and not a right, subject to governmental control (p. 538). This power of control is an incident of the society's right to self-protection and it rests upon the right of the State to care for the health, morals and welfare of the people. Liquor traffic is a source of pauperism and crime (pp. 539, 540, 541).”

15. In *Har Shankar* case [*Har Shankar v. Dy. Excise and Taxation Commr.*, (1975) 1 SCC 737] after considering decisions of five Constitution Benches, the law was summed up thus: (SCC p. 755, para 47)

“47. These unanimous decisions of five Constitution Benches uniformly emphasised after a careful consideration of the problem involved that the State has the power to prohibit trades which are injurious to the health and welfare of the public, that elimination and exclusion from business is inherent in the nature of liquor business, that no person has an absolute right to deal in liquor and that all forms of dealings in liquor have, from their inherent nature, been treated as a class by themselves by all civilised communities. The contention that the citizen had either a natural

or a fundamental right to carry on trade or business in liquor thus stood rejected.”

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. Learned counsel, however, mounted his challenge to the impugned notification based on Article 14 principally on the ground that the policy as reflected in the impugned notification was irrational and that raising of MSF requirements over the previous years' figures with a view to regulate the “quality of liquor” being sold in Delhi was arbitrary and has no nexus with the object sought to be achieved, viz., to provide liquor of good quality to the consumers in the National Capital Territory of Delhi. It was also urged that the policy is discriminatory and as a result of the policy, small-scale manufacturers with good quality of liquor, were likely to be deprived of their marketing brand within the potential market of Delhi, in case they do not achieve the prescribed MSF outside Delhi and that would result in leaving the field wide open only for big business houses who would retain their monopoly in Delhi market.

18. The challenge, thus, in effect, is to the executive policy regulating trade in liquor in Delhi. It is well settled that the courts, in exercise of their power of judicial review, do not ordinarily interfere with the policy decisions of the executive unless the policy can be faulted on grounds of mala fide, unreasonableness, arbitrariness or unfairness etc. Indeed, arbitrariness, irrationality, perversity and mala fide will render the policy unconstitutional. However, if the policy cannot be faulted on any of these grounds, the mere fact that it would hurt business interests of a party, does not justify invalidating the policy. In tax and economic regulation cases, there are good reasons for judicial restraint, if not judicial deference, to judgment of the executive. The courts are not expected to express their opinion as to whether at a particular point of time or in a particular situation any such policy should have been adopted or not. It is best left to the discretion of the State.”

28. They have also placed reliance on the judgment of the Supreme Court in the case of **Union of India vs. Indo-Afghan Agencies Ltd.;** (1968) 2 SCR 366 in support of their contentions that they are not estopped from raising the plea.

29. In support of their arguments with regard to legitimate expectation, reliance is placed upon the judgment in the case of

National Building Construction Corporation vs. S. Raghunathan and others; (1998) Supp (1) SCR 156.

30. Learned counsel for the State, on the other hand, to contend that it is the date when the license is granted is relevant for the application of the Policy and the Rules and not date on which the tenders are invited or applications are invited. To support the said contentions, reliance is placed upon the following judgments :

1. 1996 (2) SCC 439 (*S. B. International Ltd. vs. Assistant Director General of Foreign Trade & Ors.*);
2. 1999 (7) SCC 314 (*Union of India vs. Indian Charge Crome and Anr.*);
3. 2004 (1) SCC 663 (*Howrah Municipal Corp. and Others vs. Ganges Rope Co. Ltd. and Others*);
4. 2006 (5) SCC 702 (*Kuldeep Singh vs. Govt. NCT of Delhi*);
5. 2007 (11) SCC 40 (*Commissioner of Municipal Corporation, Shimla vs. Prem Lata Sood and Others*);
6. 2014 SCC OnLine All 15240 (*Anand Kumar Sharma vs. State of U.P. and Others*)

31. In support of their contentions that the Policy decisions are not open to challenge beyond the known parameters of scope of judicial review. Reliance is placed on the following judgments :

1. 1971 (2) SCC 410 (*The State of Maharashtra and Another vs. Lok Shikshan Sanstha and others*);
2. 1980 (Supp) SCC 559 (*Col A. S. Sangwan vs. Union of India and Others*);
3. 1990 (3) SCC 223 (*Shri Sitaram Sugar Company Ltd. vs. Union of India and Others*);
4. 1991 (1) SCC 505 (*Union of India vs. S. L. Dutta and Another*);
5. 2001 (3) SCC 635 (*Ugar Sugar Works Ltd vs. Delhi Administration and others*);
6. 2005 (3) SCC 369 (*Sidheshwar Sahakari Sakhar Karkhana Ltd. vs. Union of India and others*);
7. 2007 (8) SCC 418 (*Dhampur Sugar (Kashipur Ltd. Vs. State of Uttaranchal and others*);

8. 2011 (1) SCC 640 (*Bajaj Hindustan Limited vs. Sir Shadi Lal Enterprises Limited and another*);
9. 2014 (13) SCC 356 (*Ehsan Khalid Vs. Union of India through Secretary and others*).

32. Specific reliance is placed by the counsel for the State on the Full Bench Judgment of this Court in ***Writ Tax No.504 of 2002 (Brij Bhushan Chaudhary vs. State of U.P.) decided on 05.07.2002*** and specific reliance is placed on the following observations while deciding the question no.4, which is as under :

“So far as Question no.4 is concerned, that is, if the petitioners are entitled to the renewal of licence, it is not disputed that the petitioners do not have any Fundamental Right to trade or business in liquor, which is, in fact, the exclusive privilege of the State. In this behalf, Section 36-A of the U.P. Excise Act is also very clear in that respect. Section 36A provides as follows :

"36-A. Bar, to right of renewal and compensation:- No person to whom a licence has been granted under this Act shall have any claim to the renewal of such licence or any claim for compensation on the determination or non-renewal thereof."

The grant of licence being an exclusive privilege of the State, under the Rules, the State Government has been conferred power to renew the licence on such terms and conditions, as it deems fit and proper. A bare perusal of the provisions contained in the Rules makes it clear that the State Government has the privilege to deal with cases of licenses. The Rules, in effect, have to be read in consonance with their publication in the Gazette, the Foreign Liquor 3rd Amendment Rules 2002 and Beer 2nd Amendment Rules 2002 clearly state in Rule 1 (ii) that they shall come into force at once. "At once" would mean immediately on the date, March 14, 2002. In view of Section 77, there can be no doubt that the Foreign Liquor & Beer rules would come into force on 14.3.2002. In the case of Major G.S. Sodhi (Supra) it was held that the publication in the official Gazette is presumed when a printed copy of the Gazette is produced. However, in the instant case there is no dispute that the publication took place on 3rd April, 2002. No licence was granted prior to the publication in the Gazette. Only an advertisement was published. Advertisement being step towards grant of licence and being in conformity with the

rules, therefore, there is no scope for challenge only on the ground of its non-publication.”

33. On the basis of the pleadings and the law as recorded above, this Court is to consider whether any right has accrued in favour of the petitioners warranting interference by issuance of a writ under Art. 226 of the Constitution of India, as claimed. The right of renewal claimed by the petitioners by virtue of the Rules needs to be repelled for the reason that specific bar is created under section 36-A of the U.P. Excise Act which prohibits the claim of right of renewal on the licensee. The said claim is further liable to be rejected on the ground that there is no fundamental right to deal in liquor. The dealing in liquor attracts the principles of *res extra commercium* as it has been well settled that there cannot be any commerce, there cannot be a business in crime because specifically the liquor and the intoxicants have to be regulated as they are noxious and injurious to health; no citizen can claim any right to deal with such goods on the principles of General Public Policy i.e. *res extra commercium*. Even the licenses granted to the petitioners do not confer any right; they are mere privilege.

34. In the absence of there being any right to carry out trade in liquor and there being a specific bar in seeking renewal by virtue of Section 36-A of the U.P. Excise Act, the claim of renewal/right to be considered for renewal based upon the rules, is ill-founded and cannot be accepted. Once it is held that the petitioners have no right, no writ can be issued as the challenge to the Policy is premised on the foundation of a right, which in the present case was found to be non-existent.

35. As regards to challenge to the policy on the ground of discrimination with the category of shops known as Premium Retail Vends of Foreign Liquor on the ground of discrimination, the same needs to be repelled for the simple reason that the said category of

shops is a separate category and no parity can be claimed with the said category as the petitioners are running the shops in different categories and to that extent, the challenge on the ground of arbitrariness needs to be repelled and is rejected. There is no allegation in the writ petitions with regard to there being any malafide or unreasonableness in the formulation of policy. There is no allegation of discrimination other than the one, dealt with by this Court herein above, as such, there is no reason to hold that the policy falls short of the test of Art. 14 of the Constitution of India.

36. However, this Court cannot ignore the fact that by virtue of a Policy decision being 5.15.2.2(1)(ga), *prima-facie* the right of property under Art. 300-A of Constitution has been taken away. The right of return of the money at the end of the license year is even protected in the rules, the said right cannot be taken away through a Policy decision.

37. It is well settled that Art. 300-A protects the right of Property which can be taken only in accordance with law. The Supreme Court has explained that the word 'law' used under Art. 300-A of Constitution has to be a law framed by the State Legislature and cannot be a Government Order. As laid down in the case of ***Bombay Dyeing & Mfg. Co. Ltd. v. State of Bombay; AIR 1958 SC 328*** to the effect that the money would also amount to property and thus to deprive a person of property, there has to be an authority of law.

38. The word 'law' as used in the context of Article 300-A of the Constitution has to mean the law framed by legislature and not the executive directions as given under Article 162 of the Constitution. This view is fortified by the decision of Hon'ble Apex Court in the case of ***Bishambhar Dayal Chandra Mohan and others Vs. State of U.P. and others; (1982) 1 SCC 39***, wherein the Hon'ble Supreme Court in para 41 has observed as under:

"There still remains the question whether the seizure of wheat amounts to deprivation of property without the authority of law.

*Article 300-A provides that no person shall be deprived of his property save by authority of law. The State Government cannot while taking recourse to the executive power of the State under Article 162, deprive a person of his property. Such power can be exercised only by authority of law and not by a mere executive fiat or order. Article 162, as is clear from the opening words, is subject to other provisions of the Constitution. It is, therefore, necessarily subject to Article 300-A. The word 'law' in the context of Article 300-A must mean an Act of Parliament or of a State Legislature, a rule, or a statutory order; having the force of law, that is positive or State made law. The decisions in *Wazir Chand v. State of Himachal Pradesh* and *Bishan Das and others v. The State of Punjab and others* are an authority for the proposition that an illegal seizure amounts to deprivation of property without the authority of law. In *Wazir Chand's case (supra)*, the police in India seized goods in possession of the petitioner in India at the instance of the police of the State of Jammu and Kashmir. The seizure was admittedly not under the authority of law, inasmuch as it was not under the orders of any Magistrate; nor was it under Sections 51, 96, 98 and 165 of the Code of Criminal Procedure, 1898, since no report of any offence committed by the petitioner was made to the police in India, and the Indian police were not authorised to make any investigation. In those circumstances, the Court held that the seizure was not with the authority of law and amounted to an infringement of the fundamental right under Article 31 (1). This view was reaffirmed in *Bishan Das's case (supra)*."*

39. Relying on the said judgment the Hon'ble Supreme Court in the case of ***Hindustan Times and others Vs. State of U.P. and another; (2003) 1 SCC 591*** has reaffirmed the same. The relevant paragraphs nos.23, 24 and 25 are as under:

"23. The expression 'law', within the meaning Article 300-A, would mean a Parliamentary Act or an Act of the State Legislature or a statutory order having the force of law.

*24. In *Bishambhar Dayal Chandra Mohan & Ors. etc. v. State of Uttar Pradesh & Ors. etc. [(1982) 1 SCC 39]*, this Court held as under :- "41. There still remains the question whether the seizure of wheat amounts to deprivation of property without the authority of law. Article 300-A provides that no person shall be deprived of his property save by authority of law. The State Government cannot while taking recourse to the executive power of the State under Article 162, deprive a person of his property. Such power can be exercised only by authority of law and not by a mere executive fiat or order. Article 162, as is clear from the opening words, is subject to other provisions of the Constitution. It is, therefore, necessarily subject to Article 300-A. The word "law" in the context of Article 300-A must mean an Act of Parliament or of a State legislature, a rule, or a statutory order, having the force of law, that is positive or State- made law."*

25. It is not the contention of the respondents that any service is rendered to the petitioners herein. It is also not the contention of the respondents that the petitioners are bound to pay the amount in question by reason of their statutory obligation to pay retiral benefits

to the working journalists. It is also not the case of the respondents that the petitioners herein have not been discharging their statutory obligations in the matter of payment of retiral benefits to the working journalists working in their own establishment in terms of the provision of the Central Acts as well as in terms of the Bachawat Award.”

40. In the present case, Clause 5.15.2.2(1)(ga) of the said Policy, has the affect of taking away the rights vested under Art. 300-A; although, there is no challenge to the said provision, however, the issue has arisen and was addressed by both the sides extensively. Finding the said clause to be violative of Art. 300-A of Constitution, Clause 5.15.2.2(1)(ga) of the said Policy dated 06.02.2025 is quashed.

41. The State Government is directed to take steps for refund of the money in terms of the respective Rules, which are similar and have not been amended even on 03.03.2025, and the consequent refund shall also be made to the petitioners in accordance with the law as per the prevalent Rules.

42. The writ petitions are *dismissed* except to the extent as noticed above.

Order Date :- 5.3.2025

VNP/nishant

[Pankaj Bhatia, J.]