

Court No. - 29

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 1171 of 2021

Petitioner :- Gopal Krishna Pandey

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Bharat Pratap Singh, Shivam Shukla

Counsel for Respondent :- C.S.C.

Hon'ble Munishwar Nath Bhandari, Acting Chief Justice

Hon'ble Subhash Chandra Sharma, J.

The writ petition has been filed to seek a direction on the respondents for framing necessary policy for home delivery of liquor by the petitioner who is none else but a practising lawyer of this Court.

The counsel for the petitioner submits that certain State Governments have issued notification to allow the delivery of liquor online and thereby home delivery would be made. It was in pursuance of the observations made by the Supreme Court on the State to consider non-direct sale including online/home delivery of liquor to avoid over-crowding and to maintain social distancing norms in terms of Covid-19 guidelines. It is submitted that Madras High Court has permitted online sale of liquor.

Learned Chief Standing Counsel has opposed the petition and submitted that the prayer made is in reference to the policy decision and presently Government is not inclined to allow online sale of the liquor with home delivery. The permission to sale liquor online by few States was in the era of Covid-19 when it was on peak and was to avoid over-crowding on the shops. There is nothing on record to show over-crowding on the shops in the State of Uttar Pradesh and now the peak of Covid-19 and its second phase has gone. The prayer is accordingly to dismiss the writ petition. A reference of the judgment passed in the case of ***Kerala Bar Hotels Association Vs. State of Kerala and others 2015 (16) SCC 421*** and in the case of ***Hip Bar Pvt. Ltd. Vs. State of Karnataka passed in Writ Petition No.6448 of 2019 (Excise)*** dated 13.09.2019 has been given in which similar prayer was declined.

We have considered the rival submissions of the parties and perused the record.

The prayer for home delivery of liquor has been made by petitioner in the hands of a practising lawyer. The reasons to allow sale has been given and quoted hereunder :-

(i) If liquor is sold online the sale would also increase and the increase in sale means increase of revenue.

(ii) Difficulty in deciding location of shops as per U.P. Number and Location of Excise Shop Rules, 1968 would be removed.

(iii) Low cost of maintenance of shops for licensee of liquor shops.

(iv) Senior Citizens or other persons, who for any reason best known to them avoid counter purchase from the shops, would also be facilitated.

(v) Unnecessary and unsocial crowd usually collected around the liquor shops would also be reduced, as a result of which the law and order would also improve.

Petitioner has shown its concern to increase the revenue of the State and other aspect which includes purchase of liquor even by those who may be shy in making purchase from the shop. The reasons given is not to avoid overcrowding or to maintain social distancing to follow the Covid-19 protocol rather it is for different reasons then observed by the Apex Court.

In view of the above and finding the subject matter of the policy of the State, we are not inclined presently to allow online sale of liquor.

Accordingly, the writ petition is **dismissed**.

Order Date :- 4.8.2021

Ashok Gupta

.

(Subhash Chandra Sharma, J.) (Munishwar Nath Bhandari, ACJ.)