

GAHC010066182026



2026:GAU-AS:4816

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

**Case No. : WP(C)/1890/2026**

SHARIF HUSSAIN  
S/O- LT. TALEBUDDIN AHMED, R/O- VILL- AND P.O. ROUMARI,, DIST.-  
NAGAON, ASSAM, PIN- 782125

VERSUS

THE STATE OF ASSAM AND 3 ORS  
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.  
OF ASSAM, EXCISE DEPARTMENT, DISPUR, GUWAHATI-6

2:THE COMMISSIONER OF EXCISE  
ASSAM  
HOUSEFED COMPLEX  
DISPUR  
GUWAHATI-6

3:THE DISTRICT COMMISSIONER  
NAGAON DISTRICT  
P.O. AND P.S. AND DISTRICT- NAGAON  
ASSAM  
PIN- 782001

4:THE SUPERINTENDENT OF EXCISE  
NAGAON DISTRICT  
P.O. AND P.S. AND DISTRICT- NAGAON  
ASSAM  
PIN- 78200

**BEFORE  
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

For the Petitioner(s) : Mr. I. H. Saikia, Advocate

For the Respondent(s) : Ms. M. Barman, Govt. Advocate  
Mr. D. Gogoi, Standing Counsel

- Date on which Judgment was reserved : N/A
- Date of Pronouncement of Judgment : **01.04.2026**
- Whether the pronouncement is of the Operative Part of the Judgment : No
- Whether the full Judgment has been Pronounced : Yes

**JUDGMENT AND ORDER (ORAL)**

Heard Mr. I. H. Saikia, the learned counsel appearing on behalf of the petitioner and Mr. D. Gogoi, the learned Standing Counsel for the Excise Department appearing on behalf of the respondent Nos.1, 2 & 4. I have also heard Ms. M. Barman, the learned Government Advocate appearing on behalf of the respondent No.3.

2. The brief fact of the case is that the petitioner was granted an IMFL Retail "OFF" Shop license at NGN 5, Niz-Dhing Marketing, Dhing Municipal Board, Nagaon, Assam which he has been operating by the name of Sri Sharif Hussain vide License No.14/2024-2025 issued on 20.02.2025, in the rented premises of Sri Kusheswar Saikia of Dag No.225, P.P. No.244, situated at Niz-

Dhing Marketing under Niz-Dhing Kissam of Dhing Mouza under Dhing Municipal Board, P.O.&P.S.- Dhing in the district of Nagaon, Assam.

3. It is the contention of the petitioner that the landlord under whose premises the wine shop has been running, has refused to extend the lease agreement on being expired. Having no alternative, the petitioner had to shift the said wine shop to a new location. The petitioner, accordingly applied for permission vide application dated 21.10.2025, for shifting of the said wine shop from its existing site situated at Niz-Dhing Marketing under Niz-Dhing Kissam of Dhing Mouza under Dhing Municipal Board, P.O.&P.S.- Dhing in the district of Nagaon, Assam to a new site at Diphalu, Nagaon under Mouza- Niz Sahar, P.S. Sadar at Dag No. 530 and Patta No. 90 in the rented premises of Sri Bijay Kumar Saikia. The petitioner has also deposited the requisite application fee for shifting to a tune of Rs.2,00,000/- (Two Lakhs) only, along with other relevant documents.

4. Mr. I. H. Saikia, the learned counsel for the petitioner, while referring to the Assam Excise Rules, 2016, particularly, Rule 294-A submits that the shifting of premises licensed for wholesale or retail vend of foreign liquor, country spirit and heritage alcoholic

beverages from one location to another within the same district is permissible in cases where the licensee is running his licensed shop at a place under rental deed and the landlord or owner of the place refused to extend the term of the lease. He submits that since the landlord under which the petitioner was running his license shop has refused to extend the terms of the lease, for which the petitioner has prayed for shifting of the license shop to another premises within the same District, which is permissible under the Rule, the rejection of the application for shifting of the license shop within the District is not sustainable. Therefore, the Respondent Authorities may be directed to consider the case of the petitioner in accordance with the provisions of the Assam Excise Rules, 2016.

5. Mr. D. Gogoi, the learned Standing Counsel for the Excise Department representing the respondent Nos.1, 2 & 4 submits that since the petitioner was granted the IMFL Retail "OFF" Shop license, pursuant to the tender process and considering his financial bid for a particular area as per the policy of granting license, the prayer for shifting of the wine shop to a different premises, which is far off from the present premises, cannot be permitted.

6. I have considered the submissions of learned counsel for the

parties and also perused the materials including the relevant Rules.

7. The Assam Excise Rules, 2016 has been framed under Section 84 of the Assam Excise Act, 2000, which has been amended vide notification dated 30.10.2020. The Assam Excise Rules, 2016 has substituted the Rule 294 and inserted the new Rule 294-A.

8. Rule 294-A of the Assam Excise Rules, 2016 regulates the shifting of the premises licensed for wholesale or retail vend of foreign liquor, country spirit and heritage alcoholic beverages from one location to another within the same district, which is quoted here in below:

*“294-A (1) The shifting of premises licensed for wholesale or retail vend of foreign liquor, country spirit and heritage alcoholic beverages from one location to another within the same district shall be allowed by the Excise Commissioner or the District Collector as the case may be, with prior approval of the State Government. No inter district shifting of any licensed premises shall be allowed.*

*2) The shifting of licensed premises shall be subject to the fulfillment of the following conditions, namely:-*

*(a) That the Gaon Panchayat/Municipality or Town Committee/Municipal Corporation concerned in whose area the premises licensed for wholesale or retail vend is proposed to be shifted has given no objection to that effect.*

*(b) That the proposed premises are free from the distance restriction and other criteria as provided under rule 289.*

*(c) That the Excise Commissioner or the District Collector, as the case may be, shall consider only such proposals where the shifting is essential due to the following situations :-*

*(i) licensee whose premises are affected by the implementation of Development Scheme such as road widening or other similar reasons;*

*(ii) cases where the licensee is running his licensed shop at a place under rental deed and the landlord or owner of the place do not agree to extend the term of the lease;*

*(iii) cases where the shifting is essential due to Hon'ble Court's order;*

*(iv) cases where the Excise Commissioner or the District Collector as the case may be, is satisfied that the shifting is required arising out of circumstances such as change of existing rules or procedures, which are beyond the control of the licensee;*

*(v) cases where the Excise Commissioner or the District Collector is satisfied that the shifting is necessary in the interest of the public."*

9. Bare perusal of the above Rule shows that the shifting of premises for wholesale or retail vend of foreign liquor, country spirit and heritage alcoholic beverages from one location to another within the same district is permissible, which shall be

allowed by the Excise Commissioner or the District Collector, with the prior approval of the State Government. However, no inter district shifting of license shop is allowed, with certain conditions. It provides, inter alia, that the cases where the licensee is running his licensed shop at a place under rental deed and the landlord or owner of the place do not agree to extend the term of the lease, shifting of premises of license can be allowed.

10. In the present case, admittedly the petitioner has been granted the IMFL Retail "OFF" Shop, for Niz-Dhing Marketing under Niz-Dhing Kissam of Dhing Mouza under Dhing Municipal Board, P.O.&P.S.- Dhing in the district of Nagaon, Assam. It is also an admitted position that the landlord of the petitioner under whose place the petitioner is running his wine shop, has refused to extend the term of the lease. Although the petitioner has been granted the said license for the Niz-Dhing Marketing under Niz-Dhing Kissam of Dhing Mouza under Dhing Municipal Board, P.O.&P.S.- Dhing in the district of Nagaon, Assam, the proposed new premises, namely, Diphalu, Nagaon under Mouza- Niz Sahar, P.S. Sadar at Dag No. 530 and Patta No. 90 is stated to be within the Nagaon District, it would be permissible to shift to the new place, within the same district, in terms of the Rule 294-A (supra).

11. Having considered the provisions of the above Rule and the facts and circumstances of the present case, this Court is of the view that the non-consideration of the application of the petitioner for shifting of his licensed premises from his existing site to a new site i.e. from Niz-Dhing Marketing under Niz-Dhing Kissam of Dhing Mouza under Dhing Municipal Board, P.O.&P.S.- Dhing in the district of Nagaon, Assam to Diphalu, Nagaon under Mouza- Niz Sahar, P.S. Sadar at Dag No. 530 and Patta No. 90 on the ground that the petitioner was granted license only on the basis of the financial bid offered by him and would be contrary to the Government Policy of granting license, is rather contrary to the provision of the Rule 294-A of the Assam Excise Rules, 2016. Thus, the impugned action of non-consideration by the Commissioner of Excise, Assam is not sustainable.

12. In view of the above, this Court is of the view that case of the petitioner for shifting of his license premises from existing site at Niz-Dhing Marketing under Niz-Dhing Kissam of Dhing Mouza under Dhing Municipal Board, P.O.&P.S.- Dhing in the district of Nagaon, Assam would require to be considered in accordance with the applicable Rules, particularly, Rule 294-A of the Assam Excise Rules, 2016.

13. Accordingly, it is directed that the Commissioner of Excise, Government of Assam shall consider the case of the petitioner afresh, strictly in accordance with Rule 294-A of the Assam Excise Rules, 2016, without resort to the ground of granting of license pursuant to the tender on the basis of the financial bid, offered by the petitioner for Niz-Dhing Marketing under Niz-Dhing KISSAM of Dhing Mouza under Dhing Municipal Board, P.O.&P.S.- Dhing in the district of Nagaon, Assam as the Rule permits that the license shop can be allowed to be shifted from its existing premises to the new premises, within the same district.

14. The whole exercise of consideration of case of the petitioner be made within a period of 60 (sixty) days from the date of receipt of a copy of this order.

15. The writ petition stands allowed and disposed of.

**JUDGE**

**Comparing Assistant**