

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
	19.05.2026		<p>WPMB No. 395 of 2026 Garv MalhotraPetitioner Vs.Respondents State of Uttarakhand & others <u>Hon'ble Manoj Kumar Gupta, C.J.</u> <u>Hon'ble Subhash Upadhyay, J.</u></p> <p>1. Mr. Sandeep Kothari, learned counsel for the petitioner.</p> <p>2. Mr. B.S. Parihar, learned Additional Chief Standing Counsel with Mr. S.M.S. Mehta, learned Brief Holder for the State- respondent nos.1 to 4.</p> <p>3. It is contended that under the Rules framed <i>vide</i> notification dated 05.03.2025, under Section 40 of the United Provinces Excise Act, 1910 (Adaptation and Modification Order 2002) read with Section 21 of the Uttar Pradesh General Clauses Act, 1904 (as applied in the State of Uttarakhand), the State Government <i>vide</i> Rule 2 has prescribed a detailed procedure for allotment of shops which remain un-allotted. Thereunder, initially a two stage lottery system has to be followed. If allotment still could not be made, any interested applicant can make application before District Magistrate and the District Magistrate has been given power to make allotment on basis of "first come first serve". Even if, after following the said procedure, any shop remains un-allotted, the District Magistrate has to invite applications through public notice.</p> <p>4. In the present case, without following the said procedure, the Excise Commissioner, in purported exercise of power under Rule 42 of the Rules, which empower the Excise Commissioner to issue appropriate directions to remove difficulties in the operation of the Rules, has directly</p>

allotted the shop at Rajpur Road, Dehradun in favour of respondent no.5.

5. Learned counsel for the petitioner has also invited our attention towards the pleadings made in Paragraph No.43 of the writ petition, wherein it is stated as follows: -

"43. That it is submitted herein that the aforesaid action on the part of the respondent is absolutely erroneous contrary to the public trust doctrine and further it is very relevant to mention herein that the licensee of the Indian Made Foreign Liquor Shop Rajpur Road (near RTO) for the financial year 2026-27 is the OSD of the Hon'ble the Minister, who is MLA for the local constituency Rajpur, District Dehradun and hence this makes it absolutely clear that in order to favour a particular individual, all process of procurement/ public trust doctrine has been violated."

6. Issue notice to respondent no.5 by speed post.

7. Steps to be taken within three days.

8. Counter-affidavit(s) be filed by the respondents by the next date of listing.

9. List on 18.06.2026.

10. Meanwhile, having regard to the facts of the case and the submissions made, the effect and operation of the order dated 17.02.2026, passed by the Excise Commission is, hereby, stayed.

(Subhash Upadhyay, J.)

19.05.2026

NISHANT

(Manoj Kumar Gupta, C.J.)

19.05.2026