UKHC010082852026

2026:UHC:6944-DB

Reserved

IN THE HIGH COURT OF UTTARAKHAND

AT NAINITAL

HON'BLE THE CHIEF JUSTICE MR. MANOJ KUMAR GUPTA

AND

HON'BLE SRI JUSTICE SUBHASH UPADHYAY

WRIT PETITION (M/B) NO. 395 OF 2026

Garv Malhotra …..Petitioner.

Versus

State of Uttarakhand & others ….Respondents.

With

WRIT PETITION (M/B) NO. 404 OF 2026

Megha Malhotra …..Petitioner.

Versus

State of Uttarakhand & others ….Respondents.

Counsel for the Petitioner(s)	:	Mr. U.K. Uniyal, learned Senior Counsel assisted by Mr. Sandeep Kothari and Mr. Mohd. Suhail, learned counsel.
Counsel for the State	:	Mr. S.N. Babulkar, learned Advocate General assisted by Mr. Amarendra Pratap Singh, Mr. Ganesh Kandpal, learned Additional Advocate General, Mr. Rajeev Singh Bisht, learned Deputy Advocate General, Mr. J.S. Bisht and Mr. B.P.S. Mer, learned Standing Counsel.
Counsel for Respondent No.5	:	Mr. Amit Anand Tiwari, learned Senior Counsel through *video conferencing* assisted by Mr. Vikas Bahuguna, learned counsel.

Judgment Reserved on: 20.07.2026

Judgment Delivered on: 06.08.2026

A.F.R. (Approved for Reporting)

The Court made the following:

JUDGMENT: **(per Hon'ble The Chief Justice Mr. Manoj Kumar Gupta)**

1. The present writ petitions have been filed by the petitioners invoking the extra ordinary jurisdiction of this Court under Article 226 of the Constitution of India questing the legality of the decision dated 17.02.2026 taken by the Excise Commissioner, Uttarakhand whereby three Indian Made Foreign Liquor *(for short hereinafter referred to as "IMFL")* shops in District Dehradun, including the shops in dispute situated at Dalanwala, Parade Ground, Dehradun and Rajpur Road (near RTO), Dehradun were directed to be settled by inviting offers based on highest revenue. The challenge has also been laid to the consequential proceedings culminating in allotment of the said shops in favour of respondent no.5. The petitioners further seek a direction for consideration of their respective claims for renewal of licenses in accordance with the Excise Policy.

2. The facts of both the cases are almost similar. For convenience of discussion, the facts from Writ Petition (M/B) No.395 of 2026 are being noted.

3. The State Government promulgated the Uttarakhand Excise Policy, 2025 by Government Order dated 05.03.2025. It regulates the settlement of retail liquor shops in the financial years 2025-26, 2026-27 and 2027-28. The policy prescribed the manner in which existing licenses were to be renewed and, in the event of failure of renewal, the procedure to be followed for settlement of such shops.

4. The petitioner along with proforma respondent no.6 was the licensee of the IMFL shop at Rajpur Road (near RTO), Dehradun for the financial year 2025-26. Under the Policy, the existing licensees, who fulfilled the prescribed conditions, were entitled to seek renewal on payment of enhanced annual revenue fixed by the State. The enhanced annual revenue prescribed for renewal of shops for the financial year 2026-27 stood enhanced by approximately 4% over the preceding year.

5. In order to operationalise the process of renewal and settlement of liquor vends in the State, the Excise Commissioner issued detailed Guidelines dated 03.02.2026 prescribing the procedure for renewal as well as settlement of shops remaining unsettled after renewal. Applications for renewal were required to be submitted between 12.02.2026

and 16.02.2026. The case of the petitioner is that he submitted the renewal application in the office of the District Excise Officer on 16.02.2026, but he was not issued any acknowledgement despite repeated requests. Therefore, on the very next day, i.e. 17.02.2026, he sent e-mail to the Principal Secretary, Excise, with copies thereof to the District Magistrate, District Excise Officer and the Excise Commissioner stating that he had duly submitted his renewal application on 16.02.2026, but no receipt had been issued to him. He also made prayer for renewing his license.

6. The State- respondents deny receipt of any renewal application from the petitioner. According to them, on the expiry of the last date, the District Excise Officer examined all renewal applications received in District Dehradun and found that applications had not been received in respect of the three shops, namely, Rajpur Road (near RTO), Dalanwala (parade ground), and GMS Road.

7. The District Excise Officer accordingly submitted a report dated 17.02.2026 to the Excise Commissioner informing her that these three shops had remained un-renewed. By another report, submitted on the same day, it was suggested that these shops possess the potential of

fetching revenues substantially higher than the prescribed annual revenue and, therefore, instead of following the normal procedure, they may be settled by inviting maximum offers.

8. The suggestion regarding the possibility of fetching higher revenue was made on basis of certain proposals received from existing licenses and other persons, the value of which, as stated in the report, are as follows:-

Sl. No.	Name of IMFL Shop	Prescribed Revenue for Financial Year 2026-27	Value of offer received	Prescribed Revenue for Financial Year 2027-28	Value of offer received
1.	Rajpur Road (near R.T.O.)	8,69,84,820	9,00,70,000	9,04,64,213	9,30,14,000
2.	Dalanwala (Parade Ground)	9,57,08,343	10,00,90,000	9,95,36,677	10,20,60,000
3.	G.M.S. Road	12,70,33,668	13,00,60,000	13,21,15,015	13,40,18,000

9. The names of the persons from whom higher offers were allegedly received have not been mentioned. It is relevant to note here that as per clause 12 of the General Instructions, any offer received from any person is required to be entered in the proposal receipt register. However, the offers on basis of which, the aforesaid recommendation was made, do not find any mention in the proposal receipt register. On the very same date, i.e. 17.02.2026, the Excise Commissioner accepted the recommendation and directed

that the aforesaid three shops be settled by inviting maximum offers. The order records that such decision was taken in exercise of power under Rule 42 of the Excise Policy in the interest of securing maximum revenue for the State.

10. Pursuant thereto, a notice dated 18.02.2026 is stated to have been issued from the office of the Excise Commissioner. The respondents describe the said notice as a public advertisement inviting offers. It is as follows:-

"*कार्यालय आबकारी आयुक्त, उत्तराखण्ड, देहरादून।*

संख्या: 23928/ सात लाई०-48/आबकारी नीति-2025/देहरादून दिनांकः फरवरी, 18 2026

:विज्ञप्तिः

सर्वसाधारण को सूचित किया जाता है कि वित्तीय वर्ष 2026-27 व 2027-28 (द्विवर्षीय) हेतु फुटकर मदिरा दुकानों के व्यवस्थापन हेतु उत्तराखण्ड आबकारी नीति विषयक नियमावली, 2025 (त्रिवर्षीय) के अन्तर्गत प्रक्रिया गतिमान है। इच्छुक एवं आर्ह आवेदक सम्बन्धित जनपद के कार्यालय जिला आबकारी अधिकारी एवं विभागीय वेवसाईट www.uttrakhandexcise.org.in तथा www.uk.gov.in पर व्यवस्थापन से सम्बन्धित जानकारी प्राप्त की जा सकती है। मदिरा दुकानों के व्यवस्थापन से सम्बन्धित समय-समय पर जारी निर्देश उपरोक्त वेवसाईट पर उपलब्ध है।

(अनुराधा पाल)
आबकारी आयुक्त,
उत्तराखण्ड ।

संख्या: 23929-33/ सात लाई०-48/आबकारी नीति-2025 / देहरादूनः तदिद्दनांक ।
प्रतिलिपिः निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित।
1. प्रमुख सचिव, आबकारी उत्तराखण्ड शासन।
2. समस्त जिलाधिकारी, उत्तराखण्ड।
3. समस्त अपर/संयुक्त/उप आबकारी आयुक्त, उत्तराखण्ड।
4. समस्त जिला आबकारी अधिकारी, उत्तराखण्ड।
5. हिन्दी दैनिक समाचार पत्र अमर उजाला, राष्ट्रीय सहारा, दैनिक जागरण, हिंदुस्तान, उत्तर उजाला, पंजाब केसरी व अंग्रेजी दैनिक द पायनियर को इस आशय के साथ प्रेषित कि उत्तराखंड प्रादेशिक संस्करण में दिनांक 19.02.2026 को न्यूनतम स्थान में प्रकाशित करते हुए भुगतान हेतु बिल कार्यालय आबकारी आयुक्त उत्तराखंड को प्रेषित करने का कष्ट करें।

(अनुराधा पाल)
आबकारी आयुक्त,
उत्तराखण्ड।"

11. According to the respondents, the said notice was also published in two newspapers, namely, Dainik Jagran and Hindustan dated 19.02.2026.

12. It is noteworthy that the said publication does not indicate the names of the shops proposed to be settled, nor reserved license fees nor the minimum guaranteed revenue. It did not prescribe the eligibility conditions, the mode of publication, the authority before whom applications were to be submitted, or the last date for submission thereof.

13. According to the respondents, notwithstanding the aforesaid shortcomings in the notice, four offers were received for the shop at Rajpur Road, (near RTO), four for the shop at Dalanwala, (parade ground) and three for the shop at GMS road. The District Excise Officer forwarded the offers to the Excise Commissioner *vide* his letter dated 23.02.2026. On 25.02.2026, the Excise Commissioner approved settlement of three shops in favour of person offering the highest annual revenue.

14. Consequently, the shop in question came to be allotted in favour of respondent no.5. Aggrieved thereby, the petitioner approached this Court.

15. The principal challenge in the writ petition is on the ground that the respondents have completely bypassed the mandatory procedure prescribed under the Excise Policy. According to the petitioner, Rule 1.1(2) read with Rules 2.1. to 2.4 prescribes a sequential procedure for settlement of shops which were left out from being renewed. The first step is a two stage lottery system. Only if the shops remain unsettled, can they be allotted on *"first come first serve"* basis. If still any shop remains unsettled even after completing the aforesaid two modes, offers could be invited based on maximum revenue.

16. The petitioner submits that none of these mandatory procedures were followed but instead immediately after the renewal process allegedly concluded, the Excise Commissioner invoked Rule 42, and directed settlement of shops on basis of so called maximum offer, but in respect whereof there is no disclosure, nor any material on record. Thus, the case of the petitioner is that the entire procedure adopted by the Excise Commissioner was not only contrary to

the procedure prescribed, but also orchestrated to extend unfair benefit to the private respondent. The publication dated 18.02.2026 was not at all offer of any invitation from the public, but merely an eye-wash. According to the petitioner, it never informed the public that applications were being invited. Consequently, a large number of intending participants were deprived of the opportunity to compete. The entire action of the official respondents is unfair, arbitrary, discriminatory and violative of Article 14 of the Constitution of India. The petitioner has also alleged that respondent no.5 is connected with a sitting politician and the allotment of the shop in his favour was politically motivated.

17. Respondent nos.1 to 4 as well as respondent no.5 have filed their respective counter-affidavits controverting the averments made in the writ petition(s). It has been pleaded that the Excise Policy dated 05.03.2025 framed under Section 40 of the United Provinces Excise Act, 1910 governed settlement of retail liquor shops for the excise years 2025-26 to 2027-28. In terms of clause 1.1(3) of the Excise Policy, the Excise Commissioner after obtaining prior approval of the State Government issued General Directions dated 03.02.2026, keeping in view the objective of obtaining maximum revenue. The applications for renewal of retail

liquor shops in District Dehradun were invited between 12.02.2026 and 16.02.2026. According to the respondents, upon expiry of the last date, the District Excise Officer, Dehradun, by communication dated 17.02.2026, informed the Excise Commissioner that renewal applications had not been received in respect of three IMFL shops, namely, Rajpur Road (near RTO), Dalanwala (parade ground) and GMS Road. Acting upon the said communication, the Excise Commissioner directed that the aforesaid three shops be settled so as to secure the maximum possible revenue for the State. Pursuant thereto, a public notice inviting open offers was published on 19.02.2026 inviting offers upto 21.02.2026. The District Excise Officer, thereafter, forwarded the proposals received under the open offer process to the Excise Commissioner stating that the offers exceeded the maximum revenue fixed under the Excise Policy. On 25.02.2026, the Excise Commissioner approved the settlement of the said shops to the highest offerer. Pursuant thereto, all the offers received were placed before the District Level Allotment Committee. It duly scrutinized the offers and thereafter granted its approval for allotment of the three shops to the highest offerers. Based on the recommendation of the said Committee, the In-charge District Excise Officer, *vide* his letter dated 02.03.2026, sought approval from the Excise Commissioner for renewal of the shops and for allotment of the three unrenewed shops in favour of the highest offerers. On 07.03.2026, the Excise Commissioner granted the approval. Acting upon the same, the allotment letters were issued on 24.03.2026, by the In-charge Excise Officer acting on behalf of the District Magistrate, in favour of the highest offerers.

18. It is submitted that business in liquor is not a fundamental right but merely a privilege which the State confers keeping in mind the revenue considerations. The impugned exercise having been taken in the interest of the Revenue, the same cannot be assailed on the grounds taken by the petitioners. In support of the said submission, learned Advocate General as well as Mr. Amit Anand Tiwari, learned Senior Counsel appearing on behalf of respondent no.5 have placed reliance on the Constitution Bench judgment of the Supreme Court in ***"State of Punjab & another vs. Devans Modern Breweries Ltd. & another"***, reported in ***(2004) 11 SCC 26***.

19. The respondents have further pleaded that the petitioner had neither submitted any renewal application

within the prescribed period nor participated in the open offer process pursuant to the public notice dated 19.02.2026. It is also their case that no contemporaneous complaint was made before the Excise Commissioner or any competent authority regarding non-receipt of renewal application and that despite the availability of the statutory remedy under Section 11(1) of the Excise Act, no appeal was preferred against the order of settlement.

20. Respondent no.5, in his counter-affidavit, has emphasized that the petitioner has deliberately misled the Court by conveying an impression that he had filed renewal application in time but the Authorities have not accepted the same, while the truth of the matter is that no application was filed by him within the timeline fixed for submission of the renewal applications and it was only on the next date that he sent an e-mail alleging that the Department was not acknowledging the receipt of his renewal application.

21. It is further submitted that another misleading stand taken by the petitioner is that the Excise Commissioner had allotted the shop in dispute in favour of respondent no.5 *vide* order dated 17.02.2026, whereas, the allotment was actually approved much later on 07.03.2026. The

submission, thus, is that the petitioner has not approached this Court with clean hands and has made mis-statement, therefore, the writ petition is liable to be dismissed on ground of misstatement and suppression of material facts. In support of the said submission, learned Senior Counsel appearing for respondent no.5 has placed a heavy reliance on the judgment of Supreme Court in ***"K.D. Sharma vs. Steel Authority of India Ltd. and others"***, reported in ***(2008) 12 SCC 481***.

22. The respondents have also raised preliminary objections regarding maintainability of the writ petition on the ground of delay and laches, contending that although the impugned action was taken in February and March, 2026, the writ petition was instituted on 15.05.2026. It is urged that on this ground as well, the writ petition deserves to be dismissed.

23. Respondent no.5 has further alleged that the petitioner and members of his family had over the preceding years adopted the recurring pattern of allowing renewal applications to lapse and thereafter securing settlement of shops through open offer mechanism at amounts lower than the prescribed revenue, thereby causing substantial loss to

the State Exchequer. It is stated that in the present year, the Excise Commissioner in order to secure highest revenue, has adopted the open offer process after due advertisement. The step taken by the Excise Commissioner is for protecting the financial interest of the State and, therefore, the petitioner cannot be permitted to question the same.

24. Having noticed the rival stands, this Court, by order dated 21.05.2026 in Writ Petition (M/B) No.404 of 2026, considered it appropriate to ascertain the circumstances, in which, the procedure prescribed under the Excise Policy had been departed from. The Principal Secretary, Excise Department was accordingly directed to conduct an inquiry and place before the Court the relevant records. The relevant part of the said order is extracted below:-

> *"9. In the above facts and circumstance, we require the Principal Secretary, Department of Excise, Government of Uttarakhand, Dehradun to hold an inquiry and apprise the Court as to the how any allotment can be made without following the procedure prescribed under the Excise Policy for settlement of shops, which had remained unallotted."*

25. In compliance of the said order, the Principal Secretary, Department of Excise, Government of Uttarakhand, filed an affidavit [in Writ Petition (M/S) No.404 of 2026] enclosing therein the reports submitted by the District Magistrate and the Excise Commissioner. The reports

narrate the chronology of events, leading to the decision taken on 02.03.2026. They reiterate that no application was received in respect of three IMFL shops. The Excise Commissioner directed that the shops be settled keeping in view the objective of securing higher revenue.

26. However, the stand of the State in Paragraph No.4 of the affidavit of the Principal Secretary (Excise) is significant. It is stated that Rule 1.1(2) read with Rules 2.1 to 2.4 of the Excise Policy prescribes a step-by-step procedure for settlement of shops remaining un-renewed. It further records that the prescribed stages were not followed before directing for settlement of shops by inviting offers on basis of highest revenue. The report further records that there was no justification for not invoking Rule 1.1(2) read with Rules 2.1 to 2.4 and that the objective of maximizing revenue alone could not justify departure from the prescribed procedure. The inquiry report, therefore, observes that allotment of the shops through the open offer process, without following the procedure prescribed under the Excise Policy, was not in accordance with the provisions of the Policy. The stand of the State Government, as taken in Paragraph No.4 of the affidavit of the Principal Secretary (Excise) is extracted below for ready reference:-

"After having gone through both the reports; findings of the inquiry are as follows:-

The Excise policy 2025-2028 clearly mentions in rule 1.1(2) that ***"After the renewal process, the remaining unsettled domestic/ foreign liquor shop shall be reallocated as per the procedures prescribed in this policy, namely, through lottery, first –come-first-serve basis, and maximum offers, ensuring that such allocations is settled in the interest of revenue"*** *and further rules 2.1 to 2.4 clearly mentions that procedure for the settlement of retail domestic/ foreign liquor shops.*

These rules prescribe for the stepwise procedure for the settlement of the shops. In light of the above mentioned rules it is clear that due process as laid down for the allotment of non-renewed shops was not followed either by the District level allotment committee or the Excise Commissioner. There is no justification for invoking Rule 42 of the policy by the Commissioner as there are Rules prescribed for the due process of allotment of non-renewed shops in the Rule 1.1.(2) and Rule 2.1 to 2.4. Further achieving maximum revenue as justification and sole reason for allotment of shops in question through offer without following due process is not in accordance with the provisions of the excise policy. *"*

27. During course of hearing of the writ petitions on 14.07.2026, learned counsel for the petitioner stated that his client is offering Rs.15.00 Lakh higher per month as revenue for the shops in dispute. On the same date, the Court was also informed that the petitioner in WPMB No.404 of 2026, who was required to deposit Rs.10.00 Lakh as Security before this Court in compliance of the previous order dated 17.06.2026 to prove her bonafide, had already deposited the said amount.

28. On such offer made by the petitioner, Mr. Amit Anand Tiwari, learned Senior Counsel appearing on behalf of respondent no.5, prayed for time to place on record a matching offer by respondent no.5. Consequently, on the said date, the matter was adjourned to 16.07.2026.

29. On 15.07.2026, respondent no.5 filed an affidavit wherein he made a counter-offer which was Rs.3.00 Lakh higher than the offer of the petitioner. The petitioner, thereafter, filed another affidavit stating that he is ready to match any competitive offer submitted by any party.

30. In view of the offers and the counter-offers received from the parties, learned Advocate General sought liberty to call the parties and find out the best offer. For the said purpose, he sought time till 18.07.2026.

31. Since the principal defence of the respondents was that the impugned procedure had secured the highest possible revenue for the State, this Court considered it appropriate to test the correctness of the said contention and, accordingly, accepted the request made by learned Advocate General to permit him to call the parties and ascertain the best offer. The order passed in this regard on 16.07.2026 is as follows:-

"1. Mr. Sandeep Kothari and Mr. Mohammad Suhail, learned counsel for the petitioner.

2. Mr. S.N. Babulkar, learned Advocate General assisted by Mr. Ganesh Dutt Kandpal, Mr. Amarendra Pratap Singh, learned Additional Advocate General with Mr. Rajeev Singh Bisht, learned Deputy Advocate General and Mr. Jagdish Singh Bisht & Mr. B.P.S. Mer, learned Standing Counsel for the State.

3. Mr. Amit Anand Tiwari, learned Senior Counsel (through VC) assisted by Mr. Vikas Bahuguna, learned counsel for the respondent No. 5.

4. Private respondent No. 5 has filed his affidavit stating that he is ready to offer three lakhs higher than the offer of the petitioner.

5. The petitioner has thereafter filed another affidavit stating that he is ready to match any competitive offer submitted by any party.

6. Learned Advocate General appearing for the State submits that the State in the aforesaid facts and circumstances desires to call the petitioner, respondent No. 5 and, other persons, who had made offer for the shop in question, and find out the best offer. He states that the same would be done on 18.07.2026 at 12:00 noon.

7. The parties would be permitted to be present personally, or through their authorized representative, for which a duly executed Power of Attorney should be there in favour of the agent. The entire proceedings would be videographed.

8. As jointly prayed, put up on 20.07.2026.

9. The interim order is extended till the next date of hearing but with the clarification that the order would be effective only in relation to the shop in dispute and not the third shop i.e. G.M.S. Road, Dehradun."

32. Pursuant to the liberty granted by this Court, the State issued a fresh public invitation in newspaper and invited offers from all interested participants. The result of the fresh process is of considerable significance. A number of fresh offers were received. The highest offers received pursuant to the public invitation were substantially higher than the

amount at which the shops had originally been settled. Indeed, in respect of the IMFL shop at Dalanwala (parade ground), the maximum offer received is from one Neha Watsal Chopra for Rs.1,51,00,000/- for the year 2026-27 and Rs.1,60,00,000/- for the year 2027-28. In respect of IMFL shop at Rajpur Road (near RTO), again the maximum offer of Neha Watsal Chopra is for Rs.1,29,00,022/- for the year 2026-27 and Rs.1,33,00,000/- for the year 2027-28.

33. The entire proceedings in this regard were held in the presence of a Committee constituted for the purpose by the District Magistrate. It comprised of the ADM (Administration) being the Chairman, In-charge District Excise Officer, Dehradun, Excise Inspector, Sector-1, Dehradun, Excise Inspector, Sector-2, Dehradun and the Excise Inspector, Sector-3, Rishikesh. The entire proceedings were videographed. The signatures of all the parties have been duly obtained on the bid-sheet, in which, value of offer given by each party is duly recorded. It bears signatures of all the parties.

34. Having noticed the rival contentions and the subsequent developments which have taken place during the

pendency of the writ petitions, the principal questions which arise for determination are:-

> ***"(i) Whether Rule 1.1(2) read with Rules 2.1 to 2.4 prescribes a mandatory sequential procedure for settlement of shops remaining unrenewed;***
>
> ***(ii) Whether Rule 42 authorized the Excise Commissioner to bypass the procedure specifically prescribed under the Excise Policy;***
>
> ***(iii) Whether the publication dated 18.02.2026 constituted a valid public invitation granting equal opportunity to every intending offerer and was fair and transparent;***
>
> ***(iv) Whether the receipt of revenue higher than the prescribed annual revenue can justify departure from the mandatory procedure;***
>
> ***(v) What is the effect of the inquiry reports submitted pursuant to the directions of this Court;***
>
> ***(vi) What is the evidentiary value of the subsequent process undertaken by the State during the pendency of the writ petitions pursuant to the order of this Court; and,***
>
> ***(vii) To what relief, if any, is the petitioner entitled."***

35. Having heard learned counsel for the parties at length, and considered the pleadings, the original records produced before the Court, the Excise Policy 2025-28, the General Instructions dated 03.02.2026 issued by the Excise Commissioner, and the inquiry reports submitted pursuant to the directions of this Court, this Court is of the considered opinion that the impugned action cannot be sustained in law.

36. At the outset, it needs to be noticed that the controversy before the Court is not whether the State is entitled to maximize its revenue, while dealing with its exclusive privilege in intoxicants. The law in this regard is well-settled by the Constitution Bench of the Supreme Court in ***Devans Modern Breweries Ltd.*** (supra), wherein it was held that no one has any fundamental right to trade in liquor and the State is entitled to evolve an appropriate policy for grant of licenses with a view to securing optimum revenue. Equally well-settled, however, is the principle that the State, while pursuing the objective of revenue maximization, remains bound by the constitutional mandate of fairness, transparency and non-arbitrariness. The revenue considerations cannot justify departure from the procedures prescribed by the Government itself.

37. The Excise Policy 2025-28 has been issued by the State in exercise of its rule making power under Section 40 of the U.P. Excise Act, 1910. It is a complete code regulating renewal as well as settlement of retail liquor shops.

38. Rule 1.1(2) provides that shops remaining unsettled after completion of the renewal process, shall be

settled in accordance with the procedure prescribed under the Policy: firstly, through lottery; secondly, on first-come, first-serve basis, and; thirdly, on basis of maximum offers. The detailed procedure governing each of these modes is contained in Rules 2.1 to 2.4. 1.1(2) and Rules 2.1 to 2.4 are reproduced below:-

> *"1.1(2) नवीनीकरण के पश्चात् अवशेष अव्यवस्थापित देशी/ विदेशी मदिरा दुकानों में पुनर्निर्धारण करते हुए नीति में दी गयी प्रक्रिया के अनुसार (लाटरी, प्रथम आवक प्रथम पावक एवं अधिकतम ऑफर) मदिरा दुकानों का व्यवस्थापन राजस्व हित में किया जायेगा।*
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> *2.1 वित्तीय 2024 -25 मे संचालित मदिरा की दुकानों मे अनुज्ञापी यदि वित्तीय वर्ष 2025 -26 एवं आगामी वित्तीय वर्ष 2026 -27 एवं 2027 -28 हेतु निर्धारित राजस्व पर मदिरा दुकान संचालन/ नवीनीकरण के लिए इच्छुक है, तो अर्ह आवेदक द्वारानिर्धारित प्रारूप में मय शपथ पत्र आवेदन करने पर जिलाधिकारी / जिला आबकारी अधिकारी की आख्या पर आबकारी आयुक्त द्वारा अंतिम निर्णय लिया जायेगा।*
>
> *2.2 नवीनीकरण की प्रक्रिया के पश्चात अवशेष अव्यवस्थापित मदिरा दुकानों का व्यवस्थापन दो चरण की लॉटरी प्रक्रिया के माध्यम से किया जाएगा।*
>
> *2.3 उपरोक्त दोनों चरणों के पश्चात अवशेष अव्यवस्थापित मदिरा दुकानों को पूर्ण राजस्व पर प्राप्त करने के इच्छुक आवेदक को जिलाधिकारी के समक्ष आवदेन प्रस्तुत करना होगा तथा जिलाधिकारी प्रथम आवक प्रथम पावक के सिद्धान्त पर दुकान का आवंटन करेंगे।*
>
> *2.4 उपरोक्त समस्त चरणों के पश्चात अवशेष अव्यवस्थापित मदिरा दुकानों का व्यवस्थापन जिलाधिकारी / जिला आबकारी अधिकारी द्वारा ऑफर आमंत्रित कर आबकारी आयुक्त को प्रेषित किया जायेगा, जिस पर आबकारी आयुक्त द्वारा निर्णय लिया जा सकेगा।"*

39. A conjoint reading of these provisions unmistakably demonstrates that they are not independent alternatives available to the authorities at their discretion. Rather, they

constitute successive stages of one integral process. Renewal is the first stage. If renewal does not materialize, settlement is to be attempted through lottery. If lottery also fails, the settlement is to be made on 'first come first serve' basis. Invitation of maximum offers is contemplated only thereafter in respect of shops which remain unsettled through the aforesaid three modes.

40. Any other interpretation would render the elaborate provisions contained in Rules 2.2, 2.3 and 2.4 wholly redundant. It is a settled principle of interpretation that every provision of a statutory instrument must be given its due meaning and no clause should be construed in a manner which renders another provision otiose.

41. Rule 1.1(2) merely identifies the permissible modes of settlement; the manner and sequence in which those modes are to be adopted is prescribed in the successive provisions of Rules 2.2, 2.3 and 2.4.

42. The principal defence urged on behalf of the respondents is founded upon Rule 42 of the Excise Policy. According to the State, Rule 42 empowered the Excise Commissioner to dispense with the normal procedure and

straightaway resort to settlement through maximum offers in order to secure higher revenue.

43. The submission cannot be accepted.

44. Rule 42 is as follows:-

> *"42. थोक एवं खुदरा अनुज्ञापनों, आसवानियों व बॉटलिंग ईकाई के संचालन में व्यवहारिक कठिनाई आती है और इसके सम्बन्ध में आबकारी नीति विषयक नियमावली या अन्य सुसंगत नियमावली में प्राविधान नहीं है तब ऐसी दशा में आबकारी आयुक्त द्वारा प्रदेश के राजस्वहित में निर्णय लिया जा सकेगा।"*

45. Power vested in the Excise Commissioner under Rule 42 is clearly residuary in nature. It is intended to meet situations where the Policy does not provide for a particular contingency or where difficulties arise in implementation thereof. A residuary provision supplements the substantive provisions; it cannot override them. Where the Policy itself prescribes an elaborate mechanism governing settlement of shops remaining un-renewed, Rule 42 cannot be invoked to bypass the mandatory provisions of the Policy solely on the ground that such course would generate a higher revenue.

46. In the present case, no vacuum existed in the Policy. No unforeseen contingency had arisen. The eventuality which arises upon expiry of the renewal period was specifically dealt with in the Policy itself under Rules 2.1 to 2.4. The only reason assigned for invoking Rule 42 is that

the afore-said three shops possess the potential of generating higher revenue through competitive offers. That circumstance, by itself, cannot constitute a practical difficulty warranting exercise of the residuary power.

47. The conclusion receives considerable support from the General Instructions dated 02.03.2026 issued by the Excise Commissioner herself. Clauses 7, 11, 12, 36 and 55 prescribe the manner in which the shops remaining un-settled after renewal are to be dealt with. They require preparation of list of such shops, publication of comprehensive notice, wide publicity through newspapers, departmental website and public offices, scrutiny of applications and adherence to the stages contemplated under the Excise Policy before the process of inviting maximum offers is undertaken. The aforesaid clauses are as follows:-

> *"7. नवीनीकरण के पश्चात अव्यवस्थापित तथा नवसृजित जनपद की सी०एल०-5सी (देशी शराव व बीयर) एवं एफ०एल०-5डी (विदेशी मदिरा व बीयर) की दुकानवार निर्धारित लाईसेंस फीस एवं न्यूनतम गारन्टीड अभिकर (जो भी लागू हो) की सूची शासन की वेबसाईट www.uk.gov.in एवं www.uttrakhandexcise.org.in जिला आबकारी अधिकारी कार्यालय तथा कलेक्ट्रेट, तहसील एवं उप-तहसील, विकासखण्ड तथा नगर पालिका कार्यालयों के नोटिस वोर्ड पर सार्वजनिक प्रदर्शन हेतु लगायी जायेगी। उक्त मदिरा दुकानों के व्यवस्थापन हेतु व्यापक प्रचार-प्रसार करना भी सुनिश्चित करेंगे।*
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> *11. नवीनीकरण के पश्चात अवशेष रह गई मदिरा दुकानों के व्यवस्थापन हेतु जनपद के राजस्व लक्ष्य के सापेक्ष अवशेष राजस्व को सबंधित मदिरा दुकानों में तर्कसंगत एवं वास्तविक उठान क्षमता के आधार पर पुनर्निर्धारित करते हुए मदिरा दुकानों का व्यवस्थापन निर्धारित कार्यक्रमानुसार दो चरण की लॉटरी प्रक्रिया के माध्यम से किया जायेगा। अवशेष मदिरा दुकानों के व्यवस्थापन हेतु लॉटरी आदि की प्रक्रिया हेतु जिला स्तरीय आवंटन समिति के सदस्य एवं लाइसेंस प्राधिकारी / जिलाधिकारी व्यवस्थापन के समय स्वयं अनिवार्य रूप से उपस्थित रहेंगे। लॉटरी प्रक्रिया के पश्चात*

प्रथम आवक प्रथम पावक तथा अधिकतम ऑफर की प्रक्रिया मदिरा दुकानों के व्यवस्थापन हेतु अपनाई जाएगी जिसके लिए निर्धारित समय सारणी के अनुसार कार्यवाही सुनिश्चित की जाएगी।

12. नवीनीकरण के पश्चात अवशेष अव्यवस्थापित मदिरा दुकान के लिये प्राप्त आवेदन पत्रों को एक पंजिका में पंजीकृत किया जायेगा। पंजिका के पंजीयन संख्या को आवेदन पत्र की रसीद में अंकित करके आवेदक को यह रसीद उपलब्ध करा दी जायेगी तथा इन मूल रसीदों को पहचान पत्र मानकर आवेदक को लॉटरी के लिये निर्धारित हाल में प्रवेश की अनुमति दी जाएगी। प्राप्त आवेदनों की कम्प्यूटर में भी प्रविष्टि की जायेगी। लॉटरी / चयन प्रक्रिया के समय आवेदक स्वयं उपस्थित रहेगा केवल अपरिहार्य स्थिति में आवेदक की अनुपस्थिति में उसका अधिकृत प्रतिनिधि नोटराइज्ड प्राधिकार पत्र के साथ ही मान्य हो सकेगा, अन्यथा की स्थिति में आवेदक को उसकी धरोहर धनराशि जब्त कर चयन की प्रक्रिया से बाहर किया जा सकेगा।

36. लॉटरी प्रक्रिया के पश्चात निर्धारित वार्षिक राजस्व पर प्रथम आवक प्रथम पावक के सिद्धांत पर दुकान का आवंटन किया जाएगा। यदि इस प्रक्रिया में कोई दुकान अव्यवस्थापित रह जाती है, तो जिला आबकारी अधिकारी द्वारा अव्यवस्थापित मदिरा दुकानों को व्यवस्थापित करने हेतु निर्धारित राजस्व के सापेक्ष सार्वजनिक विज्ञप्ति के माध्यम से ऑफर आमंत्रित किए जाएंगे तथा अधिकतम ऑफरदाता के पक्ष में जिलाधिकारी / जिला आबकारी अधिकारी की आख्या पर आबकारी आयुक्त द्वारा निर्णय लिया जाएगा, दुकान के राजस्व की गणना वास्तविक दिवसों के हिसाब से आवंटन की तिथि से की जाएगी।

55. नवीनीकरण के उपरांत अव्यवस्थापित मदिरा दुकानों हेतु राजस्व का पुनर्निर्धारण कर जनपद मदिरा दुकानों का राजस्व से संबंधित समस्त ब्यौरा कार्यालय आबकारी आयुक्त को प्रेषित करेंगे ताकि व्यवस्थापन के लिए जनपदों हेतु सामूहिक विज्ञप्ति समाचार पत्रों में प्रकाशित की जाएगी। जनपद अपने स्तर पर विज्ञप्ति जारी ना करें। अपरिहार्य स्थितियों एवं राजस्व हित में आबकारी आयुक्त से अनुमति उपरांत जनपद विज्ञप्ति जारी कर सकेंगे।"

48. These instructions are contemporaneous executive directions issued by the very authority who, subsequently, invoked Rule 42. They demonstrate that, according to the own understanding of the Department, settlement by maximum offer is not intended to be the immediate consequence of failure of renewal. It is only the last stage of the process after the earlier modes have been exhausted.

49. The respondents have placed much reliance on the publication dated 18.02.2026 in contending that adequate

publicity had been given before settlement by maximum offers.

50. This Court has carefully examined the said publication. The publication merely stated that the process of settlement of retail liquor shops was underway and that further information could be obtained from the office of the District Excise Officer or from the departmental website. Significantly, it did not invite applications nor any offers. Even the names of the shops proposed to be settled have not been mentioned. The publication did not even prescribe the eligibility conditions, the mode of participation, the Authority before whom applications were to be submitted or the last date for submission of the offers. Such publication cannot, by any accepted standard, be regarded as a public invitation intended to generate effective competition. A man of ordinary prudence reading the publication would not understand that the applications or competitive offers were being invited in respect of any identified liquor shop. At best, the publication conveyed that some process was in progress.

51. The argument that complete particulars were available on the departmental website is specious. Unless the advertisement itself informs intending participants that

applications are invited, there is no occasion for members of the public to search the departmental website. The object of a public advertisement is not merely to disseminate information but to ensure that every eligible person receives adequate notice of the opportunity so that genuine competition is generated. The publication dated 18.02.2026 utterly failed to achieve the said object.

52. There is another circumstance which totally demolishes the defence advanced by the respondents. The record reveals that in respect of other liquor shops in different districts of the State, which remained unsettled, the respondents themselves followed the procedure contemplated under Rule 3.17 of the Excise Policy and Clause 55 of the General Instructions. A comprehensive public advertisement dated 16.03.2026 was issued inviting applications. The said advertisement specifically identified the shops proposed to be settled, prescribed the eligibility conditions, disclosed the relevant particulars and invited participation from all interested persons after giving wide publicity. The contrast between the two exercises is too glaring to escape notice. Whereas remaining unsettled shops across the State were dealt with by adopting the elaborate procedure prescribed under the Excise Policy and the General Instructions, only the

three shops in District Dehradun, including the two shops in dispute in the present writ petitions were subjected to an entirely different procedure by resorting to Rule 42. The respondents have not disclosed any rational basis for such differential treatment. There is no material on record, not even whisper, that any attempt was made in respect of shops remaining unrenewed in other districts to explore whether they had the potential to generate higher revenue and, therefore, should straightaway be settled on basis of maximum offer, as in the instant case.

53. The state-wide advertisement dated 16.03.2026, in respect of unrenewed shops of other districts, is significant for yet another reason. If Rule 42, indeed, conferred an unbridled power in favour of the Excise Commissioner to abandon the prescribed procedure, whenever the authorities anticipated higher revenue, there was no reason for the respondents themselves to issue a detailed advertisement dated 16.03.2026 in respect of other shops and to adhere to the three stage procedure prescribed under the Policy. Their subsequent conduct, therefore, belies the interpretation now sought to be given to Rule 42. The Court is, therefore, unable to accept the contention that the procedure adopted in

the present case was permissible under the Excise Policy, or any such discretion was vested in the Excise Commissioner.

54. Equally significant is the extraordinary haste with which the entire exercise was completed. The renewal process was closed on 16.02.2026. On the very next day, the District Excise Officer submitted his report and the Excise Commissioner invoked Rule 42. The publication was issued on 18.02.2026, offers were allegedly received within next few days and recommendation for settlement was followed immediately thereafter. Thus, within a remarkably short span, the Authorities, not only decided to abandon the prescribed procedure, but also succeeded in concluding the process of settlement.

55. The unusual haste with which the Authorities have proceeded viewed together with no proper public invitation, coupled with the departure from the prescribed procedure leads to irresistible conclusion that the process adopted was not fair, but deliberately kept opaque, to exclude meaningful public participation and genuine competition.

56. The above conclusion stands further reinforced by the inquiry conducted pursuant to the orders of this Court. The reports submitted by the District Magistrate

acknowledged that Rule 1.1(2) read with Rules 2.1 to 2.4 contemplated a sequential procedure for settlement of shops remaining un-renewed. The reports unequivocally state that the prescribed procedure was not followed before directing for settlement of shops through maximum offers and that Rule 42 could not have been invoked, where the Policy itself contained specific procedure to meet the contingency.

57. It is true that the report seeks to justify the departure on the ground that higher revenue was likely to be realized. However, that explanation cannot dilute the factual findings recorded therein. The respondents' own inquiry substantially supports the petitioner's contention that the mandatory procedure prescribed under the Excise Policy and the General Instructions was not adhered to.

58. The aforesaid conclusions, in the opinion of the Court, are sufficient to invalidate the impugned action. However, as noted in the foregoing part of the judgment, an important development took place during pendency of the writ petitions and which has significant bearing on the relief to be granted.

59. Throughout the proceedings, the consistent stand of the respondents has been that the procedure adopted by

them, though in deviation of procedure prescribed under the Excise Policy, enabled the State to secure the highest possible revenue. Revenue maximization has, thus, been sheet-anchor of the defence set-up by the respondents.

60. Having regard to the said stand and without expressing any final opinion on merits of the controversy, this Court on the suggestion of the learned Advocate General permitted the State to invite all eligible persons to make offers. The purpose of granting such liberty was not to validate or invalidate the earlier process, but to objectively ascertain whether the respondents' assertion that by following the impugned process, the respondents have succeeded in generating maximum revenue, is correct or not.

61. As already noted, pursuant to the liberty granted, the State issued public advertisement on 16.07.2026 inviting offers from all interested persons. The process witnessed participation of several eligible bidders and culminated in receipt of fresh offers and counter-offers. The outcome of the subsequent exercise is very significant. The highest offers received, pursuant to fresh invitation, are almost of double the value at which the subject shops had been settled under the impugned process.

62. While we are conscious of the fact that the impugned administrative action cannot be adjudged wholly on the basis of the subsequent developments, but undoubtedly, the same totally demolishes the defence that the process followed was a bonafide exercise to generate maximum revenue. On the contrary, the subsequent events, objectively demonstrate that the market response was significantly higher when the State adopted a genuinely transparent procedure after extending equal opportunity to all intending participants. The subsequent process lends substantial support to the conclusion already reached by this Court that the publication dated 18.02.2026 was merely an eye-wash and did not generate meaningful competition. It furnishes objective corroboration to the finding arrived at by this Court that the impugned process was not fair and did not generate effective competition, nor elicited the best possible market response.

63. The record of the proceedings before us further reveals certain glaring facts which cannot escape notice:

(i) The In-charge District Excise Officer, by letter No.3424, dated 17.02.2026 forwarded a report to the Excise Commissioner enclosing the particulars of the applications received upto 16.02.2026 in respect of Indian Made Foreign Liquor vends, country-made liquor vends, and the three IMFL outlets, for which, according to the report, no applications had been received.

(ii) The record also contains another report of the same date, bearing letter No.3426, submitted by the same officer, to the Excise Commissioner. It is similarly worded except for addition of one more paragraph whereby it was stated that discussions were held with the existing licensees and other persons in relation to the three IMFL vends, for which, renewal applications had not been received and from which, it transpired that there was probability of fetching higher revenue for the said shops than that prescribed. Although, the report also mentions the value of higher offers received during the course of such discussions, but surprisingly, there is no such higher offer on record. Further, as already noted, on the same date, the Excise Commissioner *vide* letter No.23906, dated 17.02.2026, even proceeded to grant approval for allotment of these three shops on basis of maximum revenue invoking Rule 42. On the very next day, i.e. 18.02.2026, she approved the notice for publication in newspapers, which as already discussed, did not amount to a valid publication.

64. Another noteworthy fact is that, in the report submitted by the In-charge District Excise Officer on 23.02.2026 *vide* letter No.3526 to the Excise Commissioner regarding receipt of offers on basis of revenue higher than that prescribed, there is no mention of any advertisement in pursuance of which, the offers were received. It only refers to the order of the Excise Commissioner *vide* letter No.23906, dated 17.02.2026 as the basis on which the offers were received. This clearly indicates that even the In-charge District Excise Officer was conscious of the fact that there had been no public invitation of offers, nor did the notice dated 18.02.2026, bearing No.23928, amount to an invitation of offers from the public.

65. Another important facet of the entire exercise which needs to be noticed is that, although four offers each were allegedly received in respect of two IMFL outlets in dispute, they were all very close to each other, with a difference of merely a few hundred or a few thousand rupees. The higher offer allegedly received in respect of the shop at Rajpur Road (near RTO) was in sum of Rs.9,00,70,000/- for

the year 2026-27 and Rs.9,30,14,000/- for the year 2027-28. After the alleged public invitation of offers, Pyare Lal submitted a bid of Rs. 9,00,80,000/- for the financial year 2026-27 and Rs.9,30,14,009/- for the year 2027-28. Another bidder, Bhanu Karnwal, allegedly submitted a bid of Rs.9,00,79,500/- for the financial year 2026-27 and Rs.9,30,14,100/- for the year 2027-28. Kush Walia submitted a bid for Rs.9,00,78,000/- for the year 2026-27 and Rs.9,30,14,030/- for the year 2027-28. Vinay, the successful bidder (respondent no.5 herein) submitted a bid of Rs.9,00,81,125/- for the financial year 2026-27 and Rs.9,30,15,450/- for the year 2027-28. Likewise, the higher offer allegedly received in respect of the shop at Dalanwala (Parade Ground) was in sum of Rs.10,00,90,000/- for the year 2026-27 and was Rs.10,20,60,000/- for the year 2027-28. Shrikant Kala submitted a bid of Rs.10,00,93,000/- for the year 2026-27 and Rs.10,20,58,000/- for the year 2027-28; Naveen Chopra submitted a bid of Rs.10,00,95,000/- for the year 2026-27 and Rs.10,20,50,000/- for the year 2027-28; Himanshu Gupta submitted a bid of Rs.10,00,94,250/- for the year 2026-27 and Rs.10,20,40,000/- for the year 2027-28. Deepesh, the successful bidder (respondent no.5

herein) submitted a bid of Rs.10,00,95,124/- for the year 2026-27 and Rs.10,20,60,000/- for the year 2027-28.

66. It is indeed a matter of surprise that there was hardly any difference in the bids received from different persons. This also leaves the Court wondering whether the offerers were genuine or whether the bidders had formed a cartel and were aware of the bids of each other.

67. As per the provisions contained in the Excise Policy and the General Instructions, the District Level Committee for licensing consists of the Collector of the District as its Chairman, one Gazetted Officer nominated by the Excise Commissioner as Member, and the District Excise Officer of the District as another Member, who also functions as the Secretary of the Committee. The power to scrutinize the applications and to approve applications for renewal and settle shops is vested in the said Committee, except in cases, where even after exhausting all the modes prescribed under the Excise Policy, the shops could not be settled. Consequently, the offers which were presumably received pursuant to the approval granted by the Excise Commissioner on 17.02.2026, were placed before the District Level Committee. There is on record two reports of the said

Committee. One pertains to the applicants in whose favour recommendations were made for renewal, and the other relates to recommendations made pursuant to the directions of the Excise Commissioner dated 17.02.2026, under which the shops were to be settled on basis of maximum revenue. None of these two reports mention the date on which the proceedings of the Committee were allegedly held. However, in the report prepared by the Committee in respect of renewal of licenses, the District Magistrate while affixing his signature, has mentioned the date on which he presumably signed the report as 28.02.2026. Just above his signature, he has endorsed- "as scrutinized and proposed". In the other report prepared by the Committee, again there is no mention of any date on which the proceedings were held. Again, while signing the said report, the District Magistrate has mentioned the date as 28.02.2026. The most interesting part is the endorsement made by the District Magistrate on the said report while signing it, which is as follows:-

> *"Based on आयुक्त discrete recommendation and direction issued vide order no.24505, dated 25-02-26 & 23906, dated 17-02-26, the office may proceed further."*

68. What "discrete recommendation" was made by the Excise Commissioner to the District Magistrate pertaining to settlement of three IMFL outlets is something which leaves

the Court wondering. In her affidavit, the Excise Commissioner has failed to disclose the nature of the "discrete recommendation" made by her to the Committee, relying on which, the Committee made recommendation for allotment of the shops in dispute in favour of the private respondents.

69. Another feature of the case is that, although the allottees of the two shops are different persons, and it is also so portrayed before this Court, the petitioner has specifically averred in Paragraph No.58 of his rejoinder-affidavit that both shops are being operated in the common name "Liquor Fort". He has also brought on record photographs of both the shops, and the allegations made by the petitioner in this regard have remained uncontroverted. This also lends credence to the doubt in the mind of the Court that though the allotments have been made in the name of different persons, the actual beneficiary is a cartel. This circumstance also, to a great extent, fortifies the allegation made by the petitioners that the entire exercise was carried out at the behest of the Excise Commissioner.

70. The record also reveals interpolation. As noticed above, under the Excise Policy and the General Instructions,

the scrutiny of the applications/ proposals is required to be undertaken by the District Level Committee. However, the record shows that the District Excise Officer examined the proposals himself, accepted some and rejected others. He purportedly did so on basis of the direction issued by the Excise Commissioner *vide* letter No.24505, dated 25.02.2026. Below his endorsement, the District Excise Officer has put the date as 25.02.2026.

71. However, the record shows that the meeting of the District Level Committee was held on 28.02.2026, as is evident from the date recorded beneath the signature of the District Magistrate on the minutes of the proceedings. The proposals, therefore, could not have been considered before that date.

72. It appears that the District Excise Officer, after noticing that District Magistrate had put the date, altered the date of his endorsement from 25.02.2026 to 28.02.2026. The interpolation is uniform across all the proposals and is plainly visible. This unmistakenly shows that the record was subsequently manipulated to bring the endorsement in conformity with the date of the Committee meeting.

73. The petitioner asserts that his application for renewal was submitted within the prescribed time, but was not acknowledged or entered in the register. He relies upon e-mails allegedly sent on 17.02.2026, the day immediately following the closure of the renewal process, to the offices of the District Magistrate, District Excise Officer, the Excise Commissioner as well as the Principal Secretary, Excise. The respondents, however, dispute the receipt of the application.

74. The dispute as to whether the petitioner had, in fact, submitted the renewal application is essentially a question of fact. Even assuming, in favour of the respondents, that no valid renewal application had been submitted, the authorities were not thereby empowered to bypass the procedure prescribed under the Excise Policy and proceed straightaway to allot the shops on the basis of maximum revenue. Thus, even if the petitioner ultimately fails to establish any enforceable right for renewal, he is nevertheless entitled to question the legality of the allotment that it was made in violation of the Excise Policy and the General Instructions. The challenge, therefore, raises a broader issue concerning adherence to the prescribed method in the disposal of a valuable State privilege.

75. For this reason, while it would not be appropriate, on the present material, to direct the authorities to renew the license of the petitioner, it would equally not preclude the Court from setting-aside the impugned allotment.

76. Learned counsel for respondent no.5 vehemently contended that communication of the Excise Commissioner dated 17.02.2026 was not an allotment in favour of respondent no.5. The petitioner had misled this Court into believing that it was allotment of shop in favour of respondent no.5 and succeeded in obtaining interim order on basis of the said misrepresentation. Consequently, the writ petition is liable to be dismissed on this ground alone.

77. We have given our anxious consideration to the above submission. Although, the communication dated 17.02.2026 did not itself finally allot the shop in favour of the private respondent, but in the facts and circumstances of the instant case, it cannot be said to be an innocuous preliminary communication. It constituted the foundational decision to bypass the procedure prescribed and settle the three shops through maximum offers. The respondents' own pleadings show that pursuant to the report of District Excise Officer, the District Excise Commissioner, by impugned communication,

directed the three shops to be settled at the maximum possible revenue and that this direction led directly to the allotment of the shop in favour of the private respondent. A challenge to the foundational decision necessarily brings the consequential order under scrutiny. The petitioner's description of the order dated 17.02.2026 as an allotment order may be technically imprecise, but the same does not alter the substance of the challenge or amount to such mis-statement as should result in dismissal of the writ petition.

78. The respondents have also made extensive allegation against the petitioner and his family members that over several years, they have succeeded in obtaining licenses of multiple liquor shops by adopting sharp practices. These allegations do not answer the core issue. If any earlier allotment has been obtained by the petitioners or any member of his/ her family illegally, collusively or by misrepresentation, the competent authority is free to initiate proceedings in accordance with law. However, these allegations against the petitioners would not legalize the present exercise.

79. The petitioner, in turn, has also alleged that respondent no.5 secured the allotment under political

influence. It is alleged, he is connected with a Minister and that allotment was obtained by exercising undue political influence. We refrain ourselves from expressing any opinion on these allegations, as according to us, the petitions can be decided without recording any finding on these allegations. The allotment is liable to be struck down on basis of the discussion made hereinabove.

80. Another contention of the respondents has been delay and laches in advancing the challenge. In this regard, it is noteworthy that the license in question was granted for two financial years. The allotment, as held above, is found to be contrary to the Excise Policy and also appears to be an outcome of extraneous considerations. Where the action is found to be arbitrary and an outcome of colorable exercise of power, this Court would not decline relief merely on basis of a delay of few months in approaching this Court.

81. Before parting, we would also deal with an objection made by Mr. U.K. Uniyal, learned Senior Counsel appearing for the petitioners. He submitted that offer of Neha Watsal Chopra is not liable to be considered as the Court had permitted the State to invite only the petitioner, the respondent, and other bidders who earlier submitted the

bids, to participate in the tender process in pursuance of order dated 16.07.2026.

82. However, we find no force in the submission. In our order dated 16.07.2026, while we noted the submission of the learned Advocate General that State would call the petitioner, respondent no.5 and other bidders, the Court nor the State ever intended to exclude other persons from participating in the final exercise to be undertaken by the State. The advertisement issued by the State reveals that the State, in all propriety, invited applications from the general public and permitted only those to participate who deposited the EMD and relevant documents. In fact, if the exercise would have been confined to only the petitioners and those who had made bids earlier, it would have resulted in perpetuation of the same illegality which was committed earlier, namely, absence of proper advertisement and the consequent denial of equal opportunity to all eligible persons desirous of participating in the process.

83. Having regard to the discussion made above, the writ petitions are disposed of as follows:-

(i) The order of the Excise Commissioner dated 17.02.2026 and all consequential actions, including allotment of shops in dispute in favour of private respondents, shall stand set-aside and quashed.

(ii) The District Magistrate, who is the Chairman of the District Level Committee, shall place all the offers received in pursuance of the exercise undertaken by the State on basis of advertisement dated 16.07.2026 as well as offers and counter-offers received in the present proceedings before the Committee for consideration and for appropriate decision within one week.

(iii) In case, the offers submitted by respondent no.5 are accepted, they shall be permitted to resume their operations on basis of fresh offers. In case, however, offer of some other party is accepted, the license fees and the security deposit of respondent no.5 shall be refunded within next one week. They shall also not be charged the minimum monthly guaranteed duty since the date they could not operate the shops, and in case, any amount had been received from them on that count, the same shall also be refunded to them positively within one week. The remaining stock of liquor, if any, in the hands of respondent no.5 shall also be taken back and disposed of in terms of Rule 17 of the Settlement Rules, 2000.

(iv) The amounts deposited by the petitioners in pursuance of the orders of this Court shall be refunded to them.

84. A copy of the instant order shall be forwarded by the Registry to the Chief Secretary for enquiry and appropriate action in accordance with law.

85. Pending application, if any, also stands disposed of.

(MANOJ KUMAR GUPTA, C.J.)

(SUBHASH UPADHYAY, J.)

Dated: 06th August 2026
NISHANT

NISHANT
KUMAR