



Serial No.01
Supp. List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C). No. 406 of 2025

Date of Decision: 26.03.2026

1. The East Khasi Hills Wine Dealers Welfare Association, a registered Association bearing registration Number – SR/EKHWTWA – 1028/01 of 2001 having its office at Hotel Poinisuk, Laitumkhrach. Represented by its General Secretary, Shri. Earnest Mawrie, Residing at Lumbatngen, Nongthymmai, Shillong-793021, Meghalaya.
2. Shri. Earnest Mawrie, General Secretary of the East Khasi Hills Wine Dealers Welfare Association, Aged about 54 years, Son of (L) B.N.War, Resident of Lumbatngen, Nongthymmai, Shillong-793021, Meghalaya.

...Petitioners

-Versus-

1. The State of Meghalaya, Represented by the Additional Chief Secretary, Excise, Registration, Taxation & Stamps Department, Govt. of Meghalaya, Shillong – 793001, Meghalaya.
2. The Commissioner & Secretary, Excise, Registration, Taxation & Stamps Department, Govt. of Meghalaya, Shillong – 793001, Meghalaya.



3. The Under Secretary,
Excise, Registration, Taxation & Stamps Department,
Govt. of Meghalaya,
Shillong – 793001, Meghalaya.
4. The Commissioner of Excise,
Office of the Commissioner of Excise,
Government of Meghalaya,
Shillong – 793001, Meghalaya.
5. The Deputy Commissioner of Excise,
Government of Meghalaya,
Shillong – 793001, Meghalaya.

...Respondents

Coram:

Hon'ble Mr. Justice H.S.Thangkhiew, Judge
Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner/Applicant(s) : Mr. R.B.Phookan, Adv. with
Mr. S.Sen, Adv.
Mr. M.U.Ahmed, Adv.

For the Respondent(s) : Mr. A.Kumar, AG with
Ms. S.Laloo, GA.
Ms. D.Mukherjee, Adv.

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|-----|--|--------|
| i) | Whether approved for reporting in
Law journals etc: | Yes/No |
| ii) | Whether approved for publication
in press: | Yes/No |
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Per. H.S. Thangkhiew, Judge:

JUDGMENT AND ORDER

1. The petitioner No. 1, a registered Association of Wine Dealers represented by the petitioner No. 2 are before this Court challenging the notification dated 12-09-2025 framed under the Meghalaya Excise (Amendment) Rules, 2024 to introduce the implementation of the Integrated Excise Management System (IEMS) cum track and trace solution for the Excise Department. This system involves the affixing of holograms on all liquor bottles and these bottles will carry a QR Code to monitor the sale and movement of these bottles through the supply chain i.e. from manufacturer to Central Bonded Warehouse to Bonded Warehouse and finally the retail supplier. In this system, all the stake holders are required to register themselves in the system developed by the respondent authorities, with the software being provided by the Excise Department, Government of Meghalaya.

2. For the implementation of the system, the respondent No. 5 vide letter dated 13-08-2025, had fixed the cost of IEMS at Rs. 2.40 + GST and the cost of the hologram with the QR Code fixed at Rs. 1.50 together with an imposition of additional revenue component at Rs. 0.50. The prices are as per bottle and the initial cost is incurred by the manufacturer/bottling units/



Central Bonded Warehouse which is recovered while selling them to the Bonded warehouse, who in turn recovers the same from the retailers. At the same time, vide a notification dated 12-09-2025, the maximum percentage of profit margin for retailers which was originally 20% has been reduced to 15%, even though the introduction of IEMS, has resulted in the increase in price by 4.40% or approximately 5% per bottle. The grievance of the petitioners is that though these costs are initially borne by the manufacturers, Bonded Warehouses etc., the same is ultimately passed on to the retailers and it has been contended that the said charges lacked proper statutory backing under sections 21 and 36 of the Meghalaya Excise Act, and were imposed by an authority not competent to levy such levies. Another grievance is with the reduction in the maximum percentage of profit margin from 20% to 15%, which they contend will seriously affect their business.

3. The issues that arise for consideration therefore, is firstly, whether the amendment reducing the retailer profit margin constitutes a valid exercise of its regulatory power, or whether it crosses the line into the realm of manifest arbitrariness, or unreasonableness. Secondly, the most crucial issue is whether, a substantive link exists between the implementation of the new tracking system and the decision to reduce the retailer margin, inasmuch as, if there be such a link, the same could be considered a disguised, or indirect method of funding a third-party contract which, transgresses the limits of



legitimate relations. Thirdly, is the issue as to whether the directive for retailers to sell at new maximum retail price is reasonable or rational, considering the fact that necessary hardware and software, were yet to be put in place to make the system functionally operational at the retail point of sale.

4. It has been argued by Mr. R.B.Phookan, the learned counsel for the petitioners that the impugned reduction in retailer profit margin, is linked to the deduction of IEMS and is not an independent fiscal policy. It is submitted that while the retailers' margin has been reduced to 15%, the Central Bonded Warehouse continues to receive a maximum 6% commission and Bonded warehouses 8%, which is discriminatory. It is further submitted, that the additional charges were imposed without statutory authority under section 21 and 36 of the Meghalaya Excise Act, and that too, by an authority not competent to levy such fees which renders the entire action ultra vires, unconstitutional and arbitrary. The learned counsel for the petitioners has also submitted that section 36 of the Meghalaya Excise Act suffers from excessive delegation, inasmuch as, it confers unguided and unrestricted discretion on the Executive to fix profit margins without policy, standards or safeguards, which has resulted in the impugned notification dated 12-09-2025, which is arbitrary. The action of the respondents, it is contended, was without any consideration of rising operational cost, license fees and other



related business expenses, which have already resulted in the reduction of the gross profit margin.

5. It has further been argued that the respondent authorities, do not possess an unfettered right to formulate and fix the maximum profit margin without any due consideration of the increase in price rise and cost involved and the profit necessary for carrying on the business, and as such therefore, the decision to reduce the maximum profit margin is arbitrary. On another aspect, it has been submitted that for the implementation of the IEMS Scheme, two agreements were executed by the Commissioner of Excise with two entities in terms of an Expression of Interest dated 29-02-2024, and that, by such agreement, only the private entities have been benefitted under the IEMS Scheme, and there is no gain to the Government in terms of the introduction of the fee/cost of the IEMS application.

6. The learned counsel, on the question of maintainability, has submitted that the petitioner is a juristic person duly registered with its objective to safeguard the interest and rights of its members, and the petition challenging the validity of the notifications dated 13-08-2025 and 12-09-2025, affects all retail licensees uniformly. In this context, the learned counsel has relied upon a full bench judgment of the Allahabad High Court in the case of *Umesh Chand Vinod Kumar & Ors. vs. Krishi Utpadan Mandi Samiti, Bharthana & Anr. reported in AIR 1984 All 46*, wherein he submits at para



50 thereof, it has been held that a similar petition under Article 226 by multiple petitioners is maintainable where the right to relief arises from the same act on transaction and involves a common question of law or fact. Learned counsel has also relied upon the judgment of *Council for Leather Exports vs. All India Small Scale Tanners and Exporters Association & Anr. reported in 1996 SCC Online Mad 1237*, wherein a Division Bench of the Madras High Court held that, an association enforcing its members collective right to trade and challenging a levy under Article 265 of the Constitution is enforcing a public constitutional right. Learned counsel has also cited further decisions which are given hereinbelow on this same point.

- i. Amaravati Rajadhani Sameekarana Raithu Samakya and Another vs. State of Andhra Pradesh, 2023 SCC OnLine AP 3832.*
- ii. Director of School Education & Ors. vs. M. Velayutham and Another, 2023 SCC OnLine Mad 3643.*
- iii. A.P. Wine Dealers Association & Ors. vs. Deputy Director of Income-Tax (Investigation), 2005 SCC OnLine AP 1128.*

7. The learned counsel has then taken this Court through key definitions contained in the Assam Excise Act, 1910, as adapted by the State of Meghalaya, and has referred to section 21 and section 36 thereof, of which section 21 is the charging section for levying duty, and section 36 which grants the power to make rules. It is submitted that, under these provisions,



vide notification dated 25-01-2025, the IEMS was introduced by inserting Rule 378 into the Meghalaya Excise Rules, with Rule 378 (8) providing that all types of licenses, renewals and all other excise functionalities be carried through the IEMS cum Track and Trace Solution from the date of implementation. It is then argued that with regard to the implementation of the IEMS, there is operational confusion, inasmuch as, while the amending rules were notified on 25-01-2025, Rule 378 (8) mandates the operation of the system from the date of implementation, which however, are belied by the fact that executive letters were issued on 21-08-2025 and 22-08-2025, instructing stake holders to log in with the warning that licenses would cease to function once IEMS goes live, which clearly indicated that the system is not yet operational.

8. The learned counsel then submits that the reduction of the commission from 20% to 15% while keeping retail prices constant, is an indirect enhancement of excise revenue which is extracted from the retailers without proper legal sanction which is a colourable exercise of power. This Court, it is contended, by judgment and order passed in the case of *International Spirits and Wines Association of India vs. State of Meghalaya & Ors, 2025 SCC Online Megh 986*, had directed the State to fairly and reasonably fix the commission and had impliedly mandated a process of consultation with stake holders, which however, was not adhered



to and imposition of the reduction of commission was unilateral without affording any hearing or consultation.

9. It is lastly submitted that though there is no fundamental right attached on trade of liquor, but since the retailers have been granted licenses and running their business, they are entitled to the benefit of Article 14 and 19, and cannot be subjected to any arbitrariness and discrimination.

10. On behalf of the State respondents, the learned Advocate General has submitted that the challenge made is wholly misconceived and untenable in law, apart from the lack of locus standi of the petitioner association. It is submitted that the writ petition itself is not maintainable, inasmuch as, the petitioner association is not independently impacted by the impugned communication, and that, an association can espouse the cause of its members only where the members are identifiable and there exists a clear authorisation binding them to the result of litigation. As such, it is contended, it cannot be deemed that the interest of all the wine dealers in East Khasi Hills District, Meghalaya, are being duly and adequately represented by the petitioner association. In this context, reliance has been placed on the following judgments:

- i. Umesh Chand Vinod Kumar vs. Krishi Utpadan Mandi Samiti Bharthana & Anr. 1983 SCC OnLine All 638, (para 8-13, 18 and 50).*



- ii. *Indian Sugar Mills Association vs. Secretary to Government, 1950 SCC OnLine All 186.*
- iii. *Swakshagrahi Sangh, Janpad Panchayat Niwas vs. Union of India, 2022 SCC OnLine MP 5420, (para 7 and 8).*
- iv. *Meghalaya Wine Dealers Association & Anr. vs. State of Meghalaya (2010) 5 GLR 332.*

11. The learned Advocate General has then submitted that there is no inherent, fundamental or vested right to trade in intoxicants, such as liquor and all rights in relation thereto, which includes the manufacture, storage, sale, possession, import and export, are vested in the State, and as such, trade in liquor is not treated as a right, but as a privilege conferred by the State, subject entirely to State regulation in public interest considering its inherently harmful nature. It is also contended that, even assuming without admitting, that Article 19 is available to liquor retailers, the right to trade however, is always subject to reasonable restrictions on business in public interest under Article 19 of the Constitution. It is then reiterated that the petitioners cannot invoke Article 19 (1)(g) of the Constitution to challenge a regulatory measure concerning liquor trade which is a privilege granted by the State and not a matter of right. Reference has been made to the following judgments in support of this submission:

- i. *Har Shankar vs. Excise & Taxation Commissioner, (1975) 1 SCC 737, para 53.*



- ii. *Khoday Distilleries Ltd. vs. State of Karnataka, (1995) 1 SCC 574, para 60.*
- iii. *State of Andhra Pradesh vs. McDowell & Co., (1996) 3 SCC 709.*
- iv. *International Spirits and Wines Association of India vs. State of Haryana, (2019) 20 SCC 294.*

12. The learned Advocate General further submits that the impugned notifications are legitimate exercises of regulatory powers vested in the State in formulating economic policy, where the scope for judicial review is extremely narrow. The introduction of the IEMS with QR Code base, it is submitted, is a policy decision aimed at tracking and tracing liquor bottles to ensure transparency, prevent pilferage and secure State revenue, and that, the costs associated with this system was intended to be borne by the manufacturers and added to the cost price as per Rule 378 (9). With regard to the recalibration of maximum profit margins vide the notification dated 12-09-2025, whereby the retail margin was reduced for the retailers from 20% to 15%, it has been submitted that the same is a holistic measure for fair pricing across the supply chain and is very much in consonance with the judgment of this Court, which had upheld the Central Bonded Warehouse system and had directed the State to fix margin. The State having invoked the doctrine of wide latitude in economic policy, it is submitted, a mere diminution of income or profit margin is not a ground to challenge the State's policy, and that such policy decisions are not amenable to judicial



review. In support of this stand, the learned Advocate General has relied on the following decisions:

- i. Swiss Ribbons Private Ltd. vs. Union of India, (2019) 4 SCC 17 (paras 17-23 and 120).*
- ii. State of M.P. vs. Nandlal Jaiswal (1986) 4 SCC 566, (para 34).*
- iii. T. B. Ibrahim, Proprietor, Bus Stand, Tanjore vs. Regional Transport Authority, Tanjore, (1952) 2 SCC 590.*
- iv. Small Scale Industrial Manufactures Association (Regd.) vs. Union of India, 2021 SCC OnLine SC 246.*

13. It is then argued that the Meghalaya Excise Act, particularly sections 21 and 36, empowers the State Government to frame appropriate rules to regulate manufacture, distribution, sale and pricing of liquor in the State and the fixation of MRP and profit margins is an integral part of such regulatory control. Entry 8 of List II (State List), it is submitted, which provides for production, manufacture, purchase and sale of intoxicating liquor falls within the domain of the State legislature, and as such, it is well within the State's competence to revise, rationalise or reduce the profit margin in furtherance of public interest and revenue consideration. The petitioners, it is contended, having voluntarily entered into a regulated trade are bound by the terms, conditions and regulatory changes imposed by the State from time to time, and as such, the ground taken by the petitioners of no opportunity



being granted before the impugned notification was issued, is misconceived as in such matters, the principles of natural justice are not attracted. It is then asserted that there is a strong presumption of constitutionality and validity in favour of the impugned notifications which are subordinate legislations under the Meghalaya Excise Act and the impugned actions are squarely covered by the rule making powers under sections 21 and 36 thereof. The notifications, it is submitted, are intra vires the Act and are neither arbitrary, unreasonable nor discriminatory, and the changes apply to all stake holders in the supply chain, and the said policy cannot be struck down merely because it leads to certain additional cost on anyone in the supply chain. The following judgments have been relied upon in this regard:

- i. Mahant Moti Das vs. S.P. Sahi 1959 Supp (2) SCR 563.*
- ii. M.L. Kamra vs. New India Assurance Co. Ltd., (1992) 2 SCC 36.*

14. The learned Advocate General has then submitted that the petition is premature, as the sole grievance of the petitioner is a speculated apprehension that forthcoming policy measures may lead to increase in the MRP of IMFL brands thereby affecting profit margin. The rationalisation of margins, it is submitted, applies uniformly and Bonded Warehouses who enjoyed a minimum margin of 8% earlier, the said margin has now been capped at a maximum of 8% which reflects standardisation and regulatory



balancing, not arbitrariness or discrimination. Further, it is submitted the writ petition contains no material particulars or data to establish actual loss of profit, and the plea of reduced margin is based on conjectures and surmises. It is further submitted that the petition also suffers from non-joinder of necessary parties as the successful bidders for implementing the IEMS, with whom contracts have been drawn up and signed, have not been arrayed as party respondents in the instant writ petition, though they are vitally interested parties. The learned Advocate General then concludes by submitting that equality cannot be claimed amongst unequals, as liquor retailers are not similarly situated to Bonded Warehouses or Central Warehouses, which operate on lower margins and further, no relief can be afforded to the petitioner, nor stay of recovery of a levy be granted which can be only done under exceptional circumstances. In this context, the judgment in the case of *Assistant Collector of Central Excise Chandan Nagar, West Bengal vs. Dunlop India Limited & Ors. reported in (1985) 1 SCC 260* has been relied upon. It is finally submitted that no case has been made out for any interference and the writ petition is liable to be dismissed.

15. Having heard the learned counsel for the parties, and from the available facts and materials, what first strikes this Court is the sequential action taken by the respondents, which show that the introduction of the IEMS along with other charges was closely followed by a reduction of the



retailer profit margin from 20% to 15%, which suggest that the reduction in retail profit, is related to the implementation of the new policy rather than the same being an independent policy. This observation is further fortified by the fact that the financial impact of the new system has fallen mainly on retailers who are required to bear the additional cost linked to the IEMS, while at the same time, being made to face reduced profit margins, unlike the Central Bonded Warehouse and Bonded Warehouse, whose rates though termed maximum have continued at 8 and 6% respectively. However, as there has been a challenge made to the maintainability of the writ petition, before deliberating on the main issue, this Court will first examine the question of maintainability raised by the respondents.

16. The respondents, as seen earlier, have relied upon a series of decisions to advance the contention that the instant writ petition is not maintainable. While it is true that an association generally cannot file a writ petition to enforce the rights of its individual members, as it is a separate legal entity and it is well settled law that the fundamental rights guaranteed under Article 19, are available only to the citizens of this country i.e. natural persons, in the context of the present case, the same has to be examined from the stand point of the nature of the association and the cause that has been espoused in the instant writ petition. The writ petitioner is a registered body, which would therefore mean that it is constituted by wine dealers of the district of



East Khasi Hills, who are members of the association. Any order therefore, would necessarily bind the members of the association, whether adverse or favourable. Further, is the consideration that the grievance projected by the writ petitioner association is not for enforcement of any right against the State respondents that would come within the meaning of Article 19, but rather, touches upon the alleged arbitrary action of the respondents in implementing the IEMS, with the burden of the incidence of cost involved, saddled on the retailers while leaving the other players in the manufacturing and distribution chain virtually untouched. No doubt, as held in the case of *Khoday Distilleries* (supra), that a citizen has no fundamental right to do trade or business of liquor, and as held by the Hon'ble Supreme Court in several other decisions that all rights are vested in the State with regard to every form of activity in relation to intoxicants i.e., its manufacture, storage, export, import, sale and possession, in the considered view of this Court, once this activity is also being allowed to be operated by private players, it is incumbent upon the State to also ensure that the principles of equality are observed. At this juncture, it would be apposite to refer to the judgment in the case of *Doongaji and Co. (I) vs. State of Madhya Pradesh & Ors. 1991 Supp. (2) SCC 313* where at para 15, it has been held as follows:

“15. It is settled law by several decisions of this Court that there is no fundamental right to a citizen to carry on trade or business in liquor. The State under its regulatory power, has power to prohibit absolutely any



form of activity in relation to an intoxicant, its manufacture, possession, import and export. No one can claim, as against the State, the right to carry on trade or business in any intoxicants, nor the State be compelled to part with its exclusive right or privilege of manufacture, sale, storage of liquor. Further when the State has decided to part with such right or privilege to the others, then State can regulate consistent with the principles of equality enshrined under Article 14 and any infraction in this behalf at its pleasure are arbitrary violating Article 14. Therefore, the exclusive right or privilege of manufacture, storage, sale, import and export of the liquor through any agency other than the State would be subject to rigour of Article 14. Vide Har Shankar v. Dy. Excise & Taxation Commissioner [(1975) 1 SCC 737 : (1975) 3 SCR 254] and State of M.P. v. Nandlal Jaiswal [(1986) 4 SCC 566 : (1987) 1 SCR 1.]”

17. Taking the above noted aspects into consideration, and further, notwithstanding the fact that the instant writ petition has been preferred by an association, as there is a common question of law and fact, which equally affects all the retailers at the end of the distribution line, who though may not be connected, are nonetheless part of the same eco system, this writ petition is held to be maintainable. In this context, a Full Bench of the Allahabad High Court on this question, in its decision in the case of *Umesh Chand Vinod Kumar & Ors. vs. Krishi Udpadan Mandi Samiti* reported in *AIR 1984 All 46* on the question as to whether an association or persons registered or unregistered can maintain a petition under Article 226, which has great persuasive value, had succinctly at Paragraph 50 held as follows:



“50. Our answer to the referred questions is as follows:—

Q.1 — Whether an association of persons, registered or unregistered, can maintain a petition under Article 226 of the Constitution for the enforcement of the rights of its members as distinguished from the enforcement of its own rights?

A. 1 — The position appears to be that an association of persons, registered or unregistered, can file a petition under Article 226 for enforcement of the rights of its members as distinguished from the enforcement of its own rights—

(1) In case members of such an association are themselves unable to approach the court by reason of poverty, disability or socially or economically disadvantaged position (“little Indians”).

(2) In case of a public injury leading to public interest litigation; provided the association has some concern deeper than that of a wayfarer or a busybody, i.e., it has a special interest in the subject-matter.

(3) Where the rules or regulations of the association specifically authorise it to take legal proceedings on behalf of its members, so that any order passed by the court in such proceedings will be binding on the members.

In other cases an association, whether registered or unregistered, cannot maintain a petition under Article 226 for the enforcement or protection of the rights of its members, as distinguished



from the enforcement of its own rights.

Q. 2 Whether a single writ petition under Article 226 of the Constitution is maintainable on behalf of more than one petitioner, not connected with each other as partners or those who have no other legally subsisting jural relationship where the questions of law and fact, involved in the petition, are common?

A.2 A single writ petition under Article 226 of the Constitution by more than one petitioner, not connected with each other as partners or any other legally subsisting jural relationship, is maintainable where the right to relief arises from the same act or transaction and there is a common question of law or fact or where though the right of claim does not arise from the same act or transaction, the petitioners are jointly interested in the cause or causes of action.

Q. 3 In case the answer to question No. 1 is in the affirmative, whether only one set of court-fees would be payable on such petition or each such individual petitioner has to pay court-fees separately?

A.3 Where a single writ petition by an association or by more than one person is maintainable, then a single set of court-fees would be payable. Else, each petitioner is liable to pay separate court-fees.

Q. 4 In case answer to question No. 1 is in the negative, whether the defect of misjoinder of several petitioners in the writ petition can be cured by requiring each such petitioner to pay separate court-fees?

A.4 The technical defect of misjoinder of petitioners can, in the discretion of the Court, be cured by each petitioner paying separate court-fees.

Q. 5 Whether the petition is maintainable for questioning similar actions taken by different Mandi Samitis independently of

A.5 Our answer to this question is in the affirmative.”



each other in cases where the aggrieved, party seeks relief against each such Committee on identical grounds?

18. Coming to the main issue in question, as observed earlier, the respondent No 5 vide letter dated 13-08-2025, had fixed the cost of IEMS at Rs. 2.40 + GST and the cost of hologram with the QR Code fixed at Rs. 1.50, and though the initial cost is incurred by the manufacturer bottling units, Central Bonded Warehouse, the same is recovered by selling them to the Bonded Warehouses which in turn, recovers the cost through re-sellers.

19. The amendment of Rule 372 in exercise of powers under section 36 of the Meghalaya Excise Act, notified on 12-09-2025, reducing the profit margin to 15% from the existing 20%, and the implementation of the IEMS, the cost of which is not absorbed by the State or by the other stake holders, would surely support the contention of the petitioner that the reduction in profit was to accommodate the cost of the implementation of the IEMS which was being charged by the entity providing the same, which is a private player. The exclusion of the other stake holders in the supply chain from being saddled with any part of the cost, or their profit margin being reduced, also weighs heavy in the mind of the Court as to the reasonableness in the action of the State respondents, in arriving at their policy decision and the resultant amendments to the Act.



20. The other issue raised by the petitioner that though the IEMS Scheme is yet to be implemented, the State Government has approved the cost cards for certain brands and the new rates have been forwarded to the manufacturers/distilleries, who have to introduce a new price of the fresh stock with the QR Code, leaving the retailers with no other choice but of lifting the fresh stock with the QR Code with a new price, this aspect in the considered view of the Court also requires proper re-examination. This observation is being made in view of the fact that it is undisputed that the IEMS Scheme is yet to go live, especially with the requisite software/hardware yet to be put in place and available to the stake holders which therefore, if not corrected, is leading to the extra cost being recovered from the customer, and at the same time, resulting in the reduction to 15% profit of the retailers.

21. The Court, in the case of *International Spirits and Wines Association of India vs. State of Meghalaya* (supra), on the question of the commission allowed to the Central Bonded Warehouse, had directed as follows:

- *The state government is to strictly monitor the business carried out by the central bonded warehouse with the other bonded warehouses and with the manufacturers, distillers and suppliers.*
- *By an administrative order the State shall fairly and reasonably fix the commission to be charged by the Central Bonded Warehouse.*



- *It required, this extra amount of commission is to be first absorbed by the government by reducing its taxes on a bottle of liquor and thereafter consider enhancing the price of a bottle, if required reasonably, so that the enhancement in price is minimal and does not affect the commission earned by the bonded warehouses or the market demand.*
- *The government is to closely monitor the activities of the Central Bonded Warehouse in relation to each of the other bonded warehouses so that the stock and description of liquor made available by Central Bonded Warehouse to each of the bonded warehouses is more or less the same as it was before the introduction of the impugned rule.*
- *The government shall ensure that the Central Bonded Warehouse does not discriminate between the bonded warehouses and carries on its business in a fair and transparent manner.*
- *If the government receives any complaint from any interested person with regard to procurement, supply and distribution by the Central Bonded Warehouse to the bonded warehouses it shall immediately entertain the complaint and take necessary measures to solve the problem.*
- *Therefore, as of now, the rules stand but subject to its application and regulation properly and reasonably by the government in accordance with our observations and directions above.*
- *In those circumstances, we declare that the impugned rules are valid and intra vires the Constitution and the laws.*
- *In case of infraction of our directions by the State resulting in misuse of the rules the writ petitioners shall have a fresh cause of action to file a proceeding to declare them as invalid and ultra vires.*
- *Both the writ petitions are disposed of declaring the Meghalaya Bonded Warehouse (Amendment) Rules, 2020 as constitutional and valid but subject to compliance by the respondent-State with our directions above for*



implementation of the said rules. We grant liberty to the petitioners to apply afresh for quashing of the said rules in case of disobedience to our directions or failure to implement the rules in accordance with our directions.

22. The directions contained in the aforesaid judgment, therefore, implicitly advocates for a balanced decision or policy to be arrived at by the State respondents, taking into consideration all relevant factors, which to the mind of this Court, will also apply to the present case. From the facts as narrated above, it can clearly be seen that there has been a financial impact upon the retailers with the amendments that have been brought by the impugned notification dated 12-09-2025, which points to a reasonable connection with the implementation of the IEMS. Though as discussed earlier, that it is settled law that there is no fundamental right to carry on trade or business in liquor, and the State is vested with the power to restrict or even prohibit such trade, however, once the State chooses to permit private parties to engage in this trade, such as, the various stake holders, its actions must satisfy the principles of equality and fairness.

23. It is also would be useful to refer the decision in the case of ***Gaurav Kumar vs. Union of India (2025) 1 SCC 641***, on the point of challenge to delegated legislation where in Paragraphs 27 and 28, it has been held as follows:

“(iii) Delegated legislation

27. The basic principle underlying the concept of delegated legislation is that the legislature cannot



directly exert its will in every detail. [Mahachandra Prasad Singh v. Bihar Legislative Council, (2004) 8 SCC 747, para 13]. It lays down the legislative policy and delegates the subsidiary or ancillary powers to the delegated or subordinate authorities to carry out the legislative policy. [Delhi Laws Act, 1912, In re, 1951 SCC 568, para 22]. It is now a settled legal principle that the legislature cannot abdicate essential legislative functions to the delegated authority. [Vasantlal Maganbhai Sanjanwala v. State of Bombay, 1960 SCC OnLine SC 27, para 4]. The legislature can entrust subsidiary or ancillary legislation to the delegate. Before such delegation, the legislature should enunciate the policy and the principles for the guidance of the delegated authority. [Harishankar Bagla v. State of M.P., (1954) 1 SCC 978, para 12]. As a corollary, the delegated authority must carry out its rule-making functions within the framework of the law. The delegated legislation must be consistent with the law under which it is made and cannot go beyond the limits of policy and standards laid down in the law. [MCD v. Birla Cotton Spg. & Wvg. Mills, 1968 SCC OnLine SC 13, paras 13, 71].

28. Although delegated legislation enjoys the presumption of constitutionality, it does not enjoy the same immunity as the parent legislation. It is now well established [Indian Express Newspapers (Bombay) (P) Ltd. v. Union of India, (1985) 1 SCC 641, para 77; State of T.N. v. P. Krishnamurthy, (2006) 4 SCC 517, para 15] that delegated legislation can be challenged on the following grounds:

(i) lack of legislative competence to make delegated legislation;

(ii) violation of fundamental rights guaranteed under the Constitution;

(iii) violation of any provision of the Constitution;



(iv) failure to conform to the statute under which it is made or exceeding the limits of authority conferred by the enabling Act;

(v) repugnance to any other enactment; and

(vi) manifest arbitrariness.”

24. Thus, from the above, it is seen that on the aspect of arbitrariness, the amendment of the Rule can surely be subject to challenge as has been done in the instant case. Another judgment that has great persuasive value is to the case of *State of A.P. and Anr. vs. Mini Taxi Owners and Drivers Association, Hyderabad & Ors. 2001 SCC OnLine AP 421*, where on the same question of subordinate legislation at para 24, the relevant part which is extracted hereinbelow, it has been held as follows:

“24.In India arbitrariness is not a separate ground since it will come within the embargo of Article 14 of the Constitution. In India any enquiry into the vires of delegated legislation must be confined to the grounds on which plenary legislation may be questioned, to the ground that it is contrary to the statute under which it is made, to the ground that it is contrary to other statutory provisions or that it is so arbitrary that it could not be said to be in conformity with the statute or that it offends Article 14 of the Constitution.

That subordinate legislation cannot be questioned on the ground of violation of principles of natural justice on which administrative action may be questioned has been held in *Tulsipur Sugar Company Limited v. Notified Area Committee, Tulsipur*, @page-SC 543 (1980) 2 SCR 1111 : ((1980) 2 SCC 295 : AIR 1980 SC 882); *Rameshchandra Kachardas Porwal v. State of Maharashtra*, (1981) 2 SCR-866 : ((1981) 2 SCC 722 : AIR 1981 SC 1127) and in *Bates v. Lord Hailsham of St. Marylebone*. (1972) 1 WLR 1373. A distinction must be made between



delegation of a legislative function in the case of which the question of reasonableness cannot be enquired into and the investment by statute to exercise particular discretionary powers. In the latter case the question may be considered on all grounds on which administrative action may be questioned, such as, non-application of mind taking irrelevant matters into consideration, failure to take relevant matters into consideration, etc., etc. On the facts and circumstances of a case, a subordinate legislation may be struck down as arbitrary or contrary to statute if it fails to take into account very vital facts which either expressly or by necessary implication are required to be taken into consideration by the statute or, say, the Constitution. This can only be done on the ground that it does not conform to the statutory or Constitutional requirements or that it offends Article 14 or Article 19(1)(a) of the Constitution. It cannot, no doubt be done merely on the ground that it is not reasonable or that it has not taken into account relevant circumstances which the Court considers relevant."

25. The petitioner, in their pleadings, though no categorical statement has been made, however, have sufficiently indicated the nexus between the increase in cost and the reduction in the maximum profit margin to 15% from 20%, which this Court has taken due note of. The State, though vested with the rule making power under section 36 of the Meghalaya Excise Act, to make rules relating to excise revenue, even without any criteria or standard being laid down, this however, cannot be said to mean that the State Government formulates a policy or acts in exercise of delegation of powers which would offend Article 14 of the Constitution. Though normally, delegated legislation cannot be challenged on the grounds of unreasonableness, however, if the same is anchored to Article 14, in the



considered view of this Court, such delegated legislation can be challenged on the ground of unreasonableness and arbitrariness. In the instant case, as observed earlier, the introduction of the IEMS coupled with the reduction of the retailer profit margin from 20% to 15% by way of the impugned amendment dated 12-09-2025, without any discernible impact or reduction in the profit margin on the other stake holders, would surely therefore amount to an action which is unreasonable and arbitrary and against the principles of equality and fairness, and as such, the amendment to Rule 372 as contained in clause 5 of the Notification No. ERTS (E) 22/2025/29 dated 12-09-2025, is liable to be struck down as being violative of Article 14 of the Constitution.

26. In the context of the above noted finding, it is also worthwhile to refer to the judgment cited by the State respondents themselves i.e., *State of M.P. vs. Nandlal Jaiswal* (supra) where at para 33 it has been held as follows:

“33. But, before we do so, we may at this stage conveniently refer to a contention of a preliminary nature advanced on behalf of the State Government and Respondents 5 to 11 against the applicability of Article 14 in a case dealing with the grant of liquor licences. The contention was that trade or business in liquor is so inherently pernicious that no one can claim any fundamental right in respect of it and Article 14 cannot therefore be invoked by the petitioners. Now, it is true, and it is well settled by several decisions of this Court including the decision in Har Shanker v. Deputy Excise & Taxation Commissioner [(1975) 1 SCC 737 : AIR 1975 SC 1121 : (1975) 3 SCR 254] that there is no



fundamental right in a citizen to carry on trade or business in liquor. The State under its regulatory power has the power to prohibit absolutely every form of activity in relation to intoxicants — its manufacture, storage, export, import, sale and possession. No one can claim as against the State the right to carry on trade or business in liquor and the State cannot be compelled to part with its exclusive right or privilege of manufacturing and selling liquor. But when the State decides to grant such right or privilege to others the State cannot escape the rigour of Article 14. It cannot act arbitrarily or at its sweet will. It must comply with the equality clause while granting the exclusive right or privilege of manufacturing or selling liquor. It is, therefore, not possible to uphold the contention of the State Government and Respondents 5 to 11 that Article 14 can have no application in a case where the licence to manufacture or sell liquor is being granted by the State Government. The State cannot ride roughshod over the requirement of that article.”
(emphasis supplied)

27. However, with regard to the challenge to the application of the IEMS system and the applicable rates thereon, the same being well within the powers of the State respondents, no case has been made out for any interference by this Court but it is observed that in its implementation, the same is to be regulated in a fair and transparent manner.

28. The other judgments cited by the respondents such as the case of *Swiss Ribbons Private Limited* (supra) which holds that equality is only among equals, and also the case of *T.B.Ibrahim, Proprietor Bus Stand Tanjore* (supra) and the case of *Small-Scale Industrial Manufacturers*



Association (supra) not being relevant for the purposes of this discussion are not elaborated upon or discussed.

29. In these circumstances therefore, and in view of the discussions made hereinabove, the amendment to Rule 372 as contained in clause 5 of the Notification No. ERTS (E) 22/2025/29 dated 12-09-2025, relating to the fixation of maximum percentage of profit is struck down as being violative of Article 14 of the Constitution.

30. The writ petition is accordingly allowed to the extent indicated above.

31. However, there shall be no orders as to costs.

(B. Bhattacharjee)
JUDGE

(H.S. Thangkhiew)
JUDGE