

IN THE HIGH COURT OF SWAZILAND

Jun Shi

V

The Chairman Liquor Licencing Board

and

Attorney General

Case No 850/97

The Applicant seeks a review of the proceedings of the liquor Licencing Board. On 13th February 1997 the board down after hearing present Applicant for the grant and issue to him of a retail bottle store licence in Mbabane declined to do so. A record of the proceedings before the Board has been filed.

The reason for the refusal of the Licence has been communicated to the Applicant. The reason so given is that in the opinion of the Board is that the area is sufficiently supplied with retail bottle stores and that the issue of a further licence would not be in the public interest. This is a valid consideration which the board is specifically enjoined to take into account in deciding whether or not to grant a licence.

The applicant has submitted,

"I am advised and I believe and submit that if the board had evidence that there was no longer any need for a bottle store in the Mbabane City Centre it should have put it to me. The failure to do so amounts to a breach of the audi alteram partem rule"

I doubt whether observance of the rule goes so far as requiring that evidence upon which the board ultimately relies in coming to a decision, be specifically put to a party to enable him to deal with it.

Even if it does the record shows that questions relevant to this issue were put to the Applicant. Thus he was asked "How many customers will you get?" and "In relation to all licenced outlets in Mbabane, is there a need for the Bottle store?"

The board may have taken account of what the Applicant said in reply to these questions but apparently having regard to its knowledge of the number of existing licences and the requirements of the citizens of Mbabane, did not grant the licence.

2

IUNSHI:WPD

An applicant aggrieved by the decision of the Board to grant a licence, is in terms of section 11bis of the Liquor Act given a right of appeal to the Minister whose decision is final and not to be questioned in any court. The Applicant has not exercised this right of appeal.

There is accordingly no basis for a review of the Board's decision on this ground. The application is dismissed with costs.

S W Sapire

Acting Chief Justice