

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**BENCH AT AURANGABAD**

**WRIT PETITION NO.11256 OF 2015**

1) Gajanan Kamalraj Jaiswal,

2) Vikas Kamalraj Jaiswal

**...PETITIONERS**

**VERSUS**

The State of Maharashtra,  
[Through Excise Department,  
Mantrayala, Mumbai-32]  
and others.

**...RESPONDENTS**

...  
Mr. Anil H. Kasliwal Advocate for Petitioners.  
Mr. A.R. Borulkar, A.G.P. for Resp. Nos.1 to 3.  
...

**CORAM: R.M. BORDE AND  
A.I.S. CHEEMA, JJ.**

**DATE : 7TH DECEMBER, 2015**

**ORDER :**

1. The Petitioners are praying for issuance of directions to Respondents to extend an opportunity of hearing to them before taking any decision on the representation made by villagers in respect of

closure of liquor shop run by the Petitioners. The villagers of village Betawad have tendered representation to the Collector requesting to convene meeting on the question whether liquor shops in the village should be allowed to operate in the village.

2. In pursuance to the representation, meeting is required to be convened in accordance with the policy prescribed by the State Government as reflected in the Order dated 25th March, 2008. The Order of the State Government is titled as "Bombay Prohibition (Closure of licence on Resolution by Gram Sabha or representation by Voters in the Ward of Municipal Council/ Corporation) Order, 2008. The procedure prescribed for convening the meeting is incorporated in Clause 3A, which reads thus:-

"(3A) If, not less than Twenty-five per cent of the women voters or total voters in any

village give a representation in writing to the concerned Superintendent of State Excise and demand to close down the liquor shop in a village, such application shall be verified by the Superintendent of State Excise. After verification of authenticity of signature on the representation and its genuinity, the Collector shall direct the concerned Tahsildar, to take secret poll fearlessly by utilizing a specimen ballot paper appended herewith. Thereafter, the concerned Tahsildar shall declare place, date and time of election at least seven days in advance. The latest list of voters shall be used for concerned village shall be completed by secret ballot under the supervision of the concerned Tahsildar or an officer not below the rank of Naib Tahasildar, authorised by him. The representative of Superintendent not below the rank of Inspector of State Excise and the liquor licensee shall be allowed to remain present during the poll. If, in such election more than fifty per cent, of the women voters or total voters of the concerned village vote for closing down the liquor shop, the Collector shall pass an order for closing down such liquor shop."

3. It is expected of the Authorities to take

action in observance of the procedure prescribed under the Order of 2008. Since, till this date no adverse action has been taken against the Petitioners, the Petition represented at this stage, merely on the basis of the apprehension, need not be entertained in exercise of the extraordinary writ jurisdiction of this Court.

4. It would be open for the Petitioners to avail of the remedies available in law as and when cause of action arises.

5. Keeping the objections raised in the instant Petition open for consideration at appropriate stage by appropriate authority, the Writ Petition stands disposed of.

**[A.I.S. CHEEMA, J.]**

asb/DEC15

**[R.M. BORDE, J.]**