

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION (STAMP) NO.18351 OF 2015

Mr. Jaykumar Jamnadas Giyanani

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondent

Mr. Girish Godbole a/w Ms. Sanjukta Dey a/w Mr. Rajiv Deokar, for the Petitioner.

Mr. Charanjeet Chanderpal, for the Respondent No.8.

Mr. S. D. Rayrikar, AGP for the Respondent Nos.1 to 7.

CORAM : R.M. SAVANT, J.

DATE : 16th JULY, 2015

PC.

1. The Writ Jurisdiction of this Court is invoked against the order dated 02.07.2015 passed by the Additional Commissioner, State Excise, Maharashtra State, Mumbai, by which order the stay granted by the Commissioner of Excise by order dated 06.04.2015 has been set aside with immediate effect. The said stay has been set aside principally on the ground that the intervenor i.e. Respondent No.8 herein was not heard by the Commissioner prior to grant of stay. Against the impugned order the Petitioner has approached the State Government by way of a Revision under Section 138 of the Prohibition Act. However, the said Revision Application has not been taken up for hearing. Since the substantive

proceeding i.e. the Appeal No.170 of 2015 filed by the Petitioner is pending before the Appellate Authority i.e. Commissioner of State Excise. In my view, it would be just and proper to direct that the said Appeal be decided within a particular time frame, rather than the proceedings relating to vacating the stay granted being decided. Hence, the Commissioner of State Excise or the officer who is occupying said post is directed to hear and decide the Appeal No.170 of 2015 filed by the Petitioner within four weeks from date i.e. on or before 13.08.2015. Needless to state that the Appeal would be decided on its own merits and in accordance with law uninfluenced by the impugned order. The contentions of the parties are kept open for being urged before the Appellate Authority. Parties to appear before the Commissioner, State Excise on 22.07.2015 at 3.00 p.m. With the aforesaid directions, the Writ Petition is disposed of.

2. On this order being passed, the Learned Counsel for the Petitioner makes a statement that the Revision filed before the State Government would be withdrawn. Statement accepted.

[R.M. SAVANT, J]