

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 466 OF 2014

(Suresh s/o Narayanlalji Jaiswal vs. State of Maharashtra thr. Secretary, State Excise Department & Ors.)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's orders

**CORAM : B.P. DHARMADHIKARI &
A.P. BHANGALE, JJ.
MARCH 09, 2015.**

Heard Shri Patre, learned counsel for the petitioner, Shri Khubalkar, learned AGP for respondent Nos. 1 to 4 and Shri Surjuse, learned counsel for respondent Nos. 5 & 6.

There are three reports which show distance of C.L. Shop and a Girls School. The first report does not exactly specify the distance. The second report points out that difference was less than 100 meters. However, on the pretext that the In-charge Inspector, who carried out that exercise was pressurized, third exercise was also carried out. In the meanwhile, the Collector had cancelled the license of subject shop and said shopkeeper (Respondent No. 6) has approached the Commissioner in Appeal. The Commissioner refused stay but the Hon'ble Minister of State Excise has granted it.

In this situation, as we find three exercises of measuring the distance on record, we find it appropriate

to direct T.I.L.R., Umarkhed, to measure and calculate the distance aerially as also by road. The exercise shall be completed within a period of two months from today. The expenses thereof shall be borne in equal proportion by the petitioner, Respondent No. 6 and by the State Government. The said report shall then be placed before the Commissioner of State Excise before whom the appeal of Respondent No. 6 is pending. The Commissioner shall after hearing the present petitioner, Respondent No. 6 and the representative of the Collector, Yavatmal, shall take the suitable decision within next two months.

We direct the petitioner as also Respondent No. 6 to appear before the Commissioner of State Excise for said purpose on 25.05.2015 and to abide by his further instructions in the matter.

With these directions and leaving all rival contentions open for consideration before the Commissioner (Appellate Authority), we dispose of the present petition. No order as to costs.

The amount of Rs.10,000/- (Rs. Ten thousand only) deposited by the petitioner, with interest accrued upon it, shall be returned to him.

JUDGE

JUDGE