

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

**WRIT PETITION NO.1053/2015**

M/s. Vidarbha Distillers and others

..Versus..

The State of Maharashtra, through its Chief Secretary and others

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

**CORAM : Z.A. HAQ, J.**

**DATE : 5.8.2015**

Heard Shri R.K. Joshi, learned advocate for the petitioners, Shri R.S. Parsodkar, learned advocate for the respondents 10 to 12, Shri Masood Sharif, learned advocate for the respondent no.3, Shri K.R. Lule, learned advocate for respondents 4 to 6 and Ms. M.N. Hiwase, learned A.G.P. for respondents 1 and 2. None appears for the other respondents though served.

It is submitted by Shri Parsodkar and Shri Masood Sharif, learned advocates that the other respondents are with the respondent nos.3 to 6 and 10 to 12.

Considering the facts of the case, the petition is taken up for final disposal.

Learned advocates for the respondents have raised preliminary objection to the tenability of the petition on the ground that petitioners

have alternative statutory remedy available under Section 247 of the Maharashtra Land Revenue Code.

Shri Joshi, learned advocate for the petitioners relying on the judgment given in the case of *Whirlpool Corporation V/s. Registrar of Trade Marks, Mumbai and others* reported in **AIR 1999 SC 22(1)** has submitted that the impugned order has been passed by learned Collector in blatant violation of principles of natural justice and therefore, technical objection raised on behalf of the respondents need not be considered and the petition be entertained.

The learned advocate for the petitioners has pointed out the order passed by this Court in Writ Petition No.6162/2011 and connected matter on 18<sup>th</sup> December, 2014 remitting the matter to the Collector for decision after hearing the parties. It is undisputed that the petitioners were party in Writ Petition No.6162/2011 and as per the directions given by this Court, the parties were required to appear before the Collector on 7<sup>th</sup> January, 2015. It is submitted on behalf of the petitioners that because of internal miscommunication between the petitioners and their advocate, the petitioners could not remain present before the Collector on 7<sup>th</sup> January, 2015. It is submitted that the petitioners had submitted a representation to the Collector on 12<sup>th</sup> January, 2015 requesting for hearing, however, without considering the request, the impugned order has been passed on 14<sup>th</sup> January, 2015.

Though the learned advocates for the respondents have made submissions on several points, in my view, without delving into merits

of the matter, the interests of justice would be sub-served by passing the following order :

- (i) As the lease is already renewed in favour of the respondents, without disturbing the order of renewal of the lease, the Deputy Collector (Nazul), Nagpur is directed to hear the petitioners as well as the respondents and take a fresh decision according to law.
- (ii) The petitioners and the respondents shall appear before the Deputy Collector (Nazul), Nagpur on 29<sup>th</sup> September, 2015 at 11 a.m.
- (iii) The petitioners shall pay costs of Rs.25,000/- (Rs. Twenty Five Thousand Only) to the respondent no.3, Rs.25,000/- (Rs. Twenty Five Thousand Only) to the respondents 4, 5 and 6 jointly and Rs.25,000/- (Rs. Twenty Five Thousand Only) to the respondents 10, 11 and 12 jointly within one month from today and produce the receipt before the Deputy Collector (Nazul), Nagpur.
- (iv) If the amount of costs are not paid by the petitioners, the Deputy Collector need not grant hearing to the petitioners and the impugned order shall stand maintained.

The petition is disposed of in the above terms.

**JUDGE**