

UNREPORTED

IN THE HIGH COURT OF JUDICATURE AT

BOMBAY

BENCH AT AURANGABAD.

WRIT PETITION NO.1239 OF 2016.

K.Bhaskar Venkata Kotgiri,
Age 42 years, Occ.Business,
R/o C-III Licenced shop,
Nathnagar, Palwan Raod,
Beed and New Bhaji Mandai,
Kalpavruksha Niwas, Beed. ... Petitioner.

Versus

1. The State of Maharashtra,
through the Secretary,
Excise Department,
Mantralaya, Mumbai-32.

2. The Collector, Beed.

3. The Superintendent(Excise),
State Excise Department,
Beed. ... Respondents.

...

Mr.Mantri R.R., advocate for the petitioner.
Mr.A.M.Phule, A.G.P for the State.

...

CORAM : S.V.GANGAPURWALA, J.

Date : 21.03.2016.

ORAL JUDGMENT :

1. Heard.

2. Rule. Rule returnable forthwith. With the consent of the parties taken up for final hearing.

3. Mr.Mantri, learned counsel submits that the Collector, Beed has passed an order directing to close down the shop run by the petitioner. The petitioner was allowed to transfer his CL-III license from Bashirganj, Beed to Palwan Road, Beed vide order dated 3.12.2015. Pursuant to the same, the petitioner deposited the necessary fees and started operating the said shop since then. The learned counsel submits that abruptly on 16.1.2016, the order is passed by the Collector, Beed directing to close down the said shop. The said order is purportedly passed by invoking Section 142 of the Maharashtra Prohibition Act, read with Rule 27 of the Maharashtra Country Liquor Rules 1973. According to the learned counsel, the said provisions are not attracted. Section 142 of the Maharashtra Prohibition Act

only deals with a situation, wherein the Collector can exercise powers regarding temporary closure. The learned counsel relies on the judgment of the learned Single Judge of this Court in a case of **"Anjali Wines and others Vs. State of Maharashtra and others"** reported in **2016 (1) Mh.L.J. 341**. The learned counsel submits that after making necessary inquiry, the permission was granted. No procedure is ever followed. For last eight (8) years, just in front of the shop of the petitioner, the another permit room is allowed to function.

4. Mr.Phule, learned A.G.P supports the order who submits that the decision has been taken in public interest. After the permission was granted to shift the license, complaints were received. Considering the said complaints, in public interest, the order is passed.

5. I have gone through the documents, the impugned order and also considered the submissions. Section 142 of the Maharashtra Prohibition Act, deals with a situation, wherein

action can be taken by the Collector in public interest, directing closure of the shop for a specified period. It has been stated in the affidavit also that the shop is closed permanently. The procedure has to be followed while directing the closure of license. The Bombay Prohibition (Closure of Licence on resolutionn by Gram Sabha or representationofo voters in the Ward of Municipal Council/Corporation) Order, 2008 has to be followed. No such exercise appears to have been done in the present matter. On receiving some complaints, directly the order has been passed directing closure of the license of the petitioner. The same is also not done by adhering to the principles of natural justice. Even in the affidavit-in-reply, nothing is stated about the functioning of the another permit room for eight (8) years as averred in the petition.

6. Considering the above, the impugned order can not be sustained. Rule is made absolute in terms of prayer clause (B). In case the Respondents seek to take any action, it is

required to follow the procedure contemplated under the Bombay Prohibition (Closure of licence on resolution by Gram Sabha or representation of voters in the Ward of Municipal Council/Corporation) Order, 2008 and/or other relevant provisions of the concerned statute and rules.

7. Rule accordingly made absolute in above terms. No costs.

8. Authenticated copy be given.

Sd/-
(S.V. GANGAPURWALA, J.)

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