

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 6500 OF 2015

SHAIKH RAFIQ SHAIKH VAZIR
VERSUS
STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. Milind M. Patil (beedkar)
AGP for Respondents: Mr. B.V. Virdhe.
Advocate for respondent No.6 : Mr. Swapnil S. Dargad.

CORAM : S.V. GANGAPURWALA
& K.K. SONAWANE, JJ.
DATE : 25TH JULY , 2016.

PER COURT:

1] Mr. Patil submits that respondent No.1 accorded permission to transfer the CLIII licence of respondent Nos. 6 and 7 from Kerwad, Taluka Shirur, Dist. Kolhapur to Akhada Balapur, Taluka Kalamnuri, Dist. Hingoli. The said transfer of licence is without following the due procedure of law. The resolution of the Gram Sabha is also faulty. The Gram Sabha was scheduled to be held on 26.1.2010. On the said date, it was not held because of lack of quorum. Same was adjourned to 27.1.2010. However, the procedure as laid down under Rule 6 of the Maharashtra Village Panchayats (Gram Sabha Meetings) Rules, 1959 read with Rule 10, thereof, has not been adhered to.

2] No notice of adjourned meeting was ever given. The proposer and secondary as shown in the proceedings and the resolution No.5 are different. Because of the business of the CL-III in front of the shop of the petitioner, the petitioner is not in a position to run his business and is also not in a position to construct his house. Learned counsel submits that the objections raised by the petitioner and other villagers before the transfer of the licence are not at all considered by the authorities. According to learned counsel, nuisance is on-going process and every day the villagers are required to face nuisance because of the said liquor shop of respondent Nos.

6 and 7. The licence is transferred in the year 2011, however, just prior to filing of the writ petition, the shop commenced functioning. The said order of transfer of licence deserves to be quashed and set aside.

3] We have heard Mr. Swapnil S. Dargad, Advocate for respondent No.6. He submits that proper procedure has been followed while transferring the licence.

4] We have considered the submissions canvassed by the learned counsel for the respective parties. It is for the Gram Panchayat to consider whether resolution has been passed by following the procedure or not. No grievance is made by any member of the Gram Panchayat or member of Gram Sabha. What nuisance is caused because of the said CL-III licence being transferred is not spelt out. It is only the petitioner who is assailing the said transfer of licence. In the absence of any proof of nuisance it would not be possible to entertain the writ petition. There is a presumption that while transferring the licence, proper procedure must have been followed. Considering the above, no relief can be granted to the petitioner. As such, writ petition is disposed of. In case, some acts of nuisance are pointed out, then, it is for the aggrieved party to approach the authority in that regard and it is for the authority to consider the same. In the circumstances, there shall be no orders as to costs.

[K.K. SONAWANE]
JUDGE

[S.V. GANGAPURWALA]
JUDGE.

grt/-