

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1236 OF 2006

Dorabjee and Company Pvt. Ltd. .. Petitioner
V/s
The Commissioner, State Excise & Anr. .. Respondents

Mrs. Veena B. Thadani for the petitioner.
Ms. S.S. Bhende, AGP for the State.

**CORAM: DR. MANJULA CHELLUR, CJ. &
M.S. SONAK, J.**

DATE : 13th DECEMBER 2016

P.C.:

Initially a writ of certiorari or a writ in the nature of certiorari calling for the papers and proceedings relating to the impugned non-obstante clause contained in the notification dated 7th January 2006 issued by the Commissioner of State Excise as being ultra vires the provisions of Rule 25(1) of the Bombay Foreign Liquor Rules was the subject matter of challenge especially contending that they are ultra vires the powers conferred on the Commissioner of State Excise under Rule 4 of the Maharashtra Potable Liquor (Periodicity and Fees for Grant, Renewal or Continuance of Licence) Rules, 1996 (for short “Potable Liquor Rules”). Now the petitioner intends to amend the petition challenging the very Rule 4 of Potable Liquor Rules which was relied upon by the petitioner at the initial stage with reference to prayer at para 39(a).

2. The contents of the entire writ petition do not indicate that the petitioner has any grievance with regard to Rule 4 of the Potable Liquor Rules. On the other hand, the petitioner contends that the notification issued was ultra vires Rule 4 of the Potable Liquor Rules, i.e. the powers conferred on the Commissioner of State Excise. In that view of the matter, the entire scenario changes since the very basis for the challenge is entirely different from what it was in the year 2006 when they filed the writ petition. Since the challenge to non-obstante clause in the Notification dated 7th January 2006 is already answered by order dated 5th August 2015 in Writ Petition No.5051 of 2004, we are of the opinion that nothing remains for us to consider in the matter. If the petitioner intends to challenge Rule 4 of the Potable Liquor Rules now, it is left open to it to do so by raising such challenge in a different writ petition.

3. The writ petition is disposed of with the above observations.

(M.S. SONAK, J.)

CHIEF JUSTICE