

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11858 OF 2016

Rekha Tilakraj Sharma

...Petitioner

vs.

The Collector of Mumbai (M.S.D.) and Others ...Respondents

Mrs. Veena Thadani, for the Petitioner.

Ms. Nisha Mehra, AGP for the Respondents-State.

CORAM : SHANTANU KEMKAR &
MAKARAND KARNIK, JJ.

DATE : **OCTOBER 26, 2016**

P.C.:

. Heard learned Counsel appearing for the Petitioner and learned AGP for the State.

2. On 24th June, 2014, the Petitioner has made an application to Respondent No.1–Collector, Mumbai for shifting vendor's licence from Shop No. 13, Kedia Shopping Centre, Anand Road, Malad (West), Mumbai 400 064 to Shop No. 2, Landmark Tower, New Barampur, Near Waman Hari Pethe & Sons, Vasai Road, Dist. Thane. Shifting of the licence is sought on the ground that sale of wine at the premises situated at present place has decreased.

3. The provisions of Rule 25(4) of the Maharashtra Foreign Liquor Rules, 1953 deal with the shifting of licence from one place to another place. Under Clause (a) of said rule, if the shifting of the licence is within a taluka, the prior approval is required from the Collector. Under clause (b), it is provided that if the shifting of the licence is from one taluka to another taluka of the said district, prior approval of the Commissioner is required. Further clause (c) of the said rule provides that if the shifting of the licence is from one district to another district, prior approval of the Government is required.

4. It is the case of the Petitioner that Respondent No.1 being the Collector of Mumbai and Respondent No.2 being the Collector of Thane have processed the Petitioner's application for shifting and thereafter forwarded the Petitioner's application along with their report to the State Government in terms of clause (c) of Rule 25(4) of the Maharashtra Foreign Liquor Rules, 1953.

5. The short grievance made in the Petition is that though the Petitioner's proposal for shifting of the licence from District Mumbai to District Thane is forwarded by the respective Collectors to

the State Government but as of today, State Government has not taken any decision on the same. In above circumstances, we deem it appropriate to dispose of this Petition by directing Respondent No.4 – the State Government in Excise Department to decide the Petitioner's said application for transfer of vendor's licence for shifting vendor's licence from Shop No. 13, Kedia Shopping Centre, Anand Road, Malad (West), Mumbai 400 064 to Shop No. 2, Landmark Tower, New Barampur, Near Waman Hari Pethe & Sons, Vasai Road, Dist. Thane as expeditiously as possible and at any rate within the period of four weeks from the date of receipt of a copy of this order. Ordered accordingly.

6. It is made clear that this Court has not gone into merits of the matter and Respondent No. 4 shall decide the said application on its own merits and in accordance with law. All points and contentions of the respective parties are kept open.

7. With the aforesaid direction, the Petition stands disposed of.

(MAKARAND KARNIK, J.)

(SHANTANU KEMKAR, J.)