

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 650/2015
 (AJAY JAGANNATH JAISWAL & ANOTHER VERSUS NAGAR PARISHAD, GONDIA)

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

Court's or Judge's orders

 Shri N.B. Bargat, counsel for the petitioners.

CORAM : SMT. VASANTI A NAIK AND
KUM. INDIRA JAIN, JJ.

DATE : SEPTEMBER 30, 2016.

By this writ petition, the petitioners challenge the communication of the Chief Officer, Nagar Parishad, Gondia, dated 09.01.2015 directing the petitioners to stop doing the business of sale of liquor from the concerned shop of the Nagar Parishad, in the absence of a 'No Objection Certificate' from the Nagar Parishad to use the shop-premises.

According to the petitioners, though the Nagar Parishad has granted a license in favour of the petitioners to deal in retail country liquor till 31.03.2015, by the impugned communication, dated 09.01.2015, the petitioners were asked to stop operating the country liquor shop in the shop premises of the Nagar Parishad on the ground that the petitioners did not possess a no objection certificate of the Nagar Parishad to use the shop premises for running the retail liquor shop. According to the petitioners, the petitioners possess the no objection certificate for running the country liquor shop in the premises of the Nagar Parishad. It is stated that the impugned order could not have been passed under the provisions of Section 273(1)(C) of the Maharashtra Municipal

Councils, Nagar Panchayats and Industrial Townships Act, 1965.

We do not find any merit in the submissions made on behalf of the petitioners that the Nagar Parishad had illegally issued the impugned communication to the petitioners asking the petitioners to stop running the retail country liquor shop in the premises of the Nagar Parishad in the absence of a no objection certificate. We find that the petitioners have annexed a copy of the no objection certificate that was granted by the Nagar Parishad to the petitioners on 26.07.2006. The said no objection certificate was to remain in force only for a period of six months from the date of issuance of the same. Clause 9 of the no objection certificate, dated 26.07.2006 mentions so. If that be so, the petitioners cannot claim that they possessed a no objection certificate of the Nagar Parishad on the date on which the impugned communication was served on them. Though we granted time to the learned counsel for the petitioners on 23.08.2016 to file the certificate showing that no objection was granted by the Nagar Parishad from time to time to the petitioners and that a no objection certificate was in existence on the date of passing of the impugned order, by clearly mentioning the said fact in our order dated 23.08.2016, the learned counsel for the petitioners is not in a position to point out that a no objection certificate was existing on the date of issuance of the impugned communication. The petitioners have produced the copies of the licenses granted by the Nagar Parishad to the petitioners to run the country liquor shop but, the petitioners have not produced a no objection certificate for using the premises of the Nagar Parishad for running the

country liquor shop, as required by the provisions of Section 274(1)(c) of the Act. Merely because there is a wrongful mention of the provision in the impugned order, the relief sought by the petitioner cannot be granted. We find on a reading of the provisions of the Act, specially Section 274(1)(c) thereof that it would not be permissible for a person to carry on a trade, occupation or business in the premises of the Nagar Parishad without securing a no objection certificate. Since at the relevant time, when the impugned order was passed, the petitioners did not possess a no objection certificate and the case of the petitioners is based on an extremely old no objection certificate that expired in the year 2006, we are inclined to dismiss the writ petition.

Hence, we dismiss the same with no order as to costs.

JUDGE

JUDGE

APTE

CERTIFICATE

I certify that this Order uploaded is a true and correct copy of original signed Order.

Uploaded by: Rohit D. Apte.

Uploaded on :04.10.2016.