

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 2544/2016

(Shri Prakash Laxmandas Damwani vs. The District Collector, Nagpur)

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

Court's or Judge's order

Mr. N.L.Jaiswal, Advocate for the petitioner
 Mr. Vishal Gangane, Asst.Govt.Pleader for respondent

**CORAM : SMT. VASANTI A NAIK &
 MRS. SWAPNA JOSHI, JJ.**
DATED : 8th August, 2016

Heard.

By this Writ Petition, the petitioner seeks a direction against the respondent-District Collector, Nagpur to implement the order passed by the Commissioner of State Excise and permit the petitioner to operate FL/BR-2 license at Koradi Road, Bokhara, District : Nagpur.

According to the petitioner, the Sub-Inspector of State Excise, Nagpur visited the Beer Shop of the petitioner and detected certain illegalities. The FL/BR-2 license of the petitioner was cancelled by the District Collector by the order dated 4.9.2015. The petitioner filed an Appeal before the Commissioner of State Excise and the Commissioner set aside the order of the Collector and directed the petitioner to pay a fine of Rs. 1 lakh. According to the petitioner, though the respondent-Collector was directed to permit the petitioner to operate the license on payment of fine, the respondent-Collector has not permitted the petitioner to operate the license.

Shri Vishal Gangane, the learned Assistant Government Pleader appearing on behalf of the respondent states that the petitioner cannot seek the direction against the respondent as sought in this writ petition, as the petitioner has not deposited the fine of Rs. 1 lakh in the Government Treasury. It is stated that the fine of Rs. 1 lakh is not deposited by the petitioner till date. It is stated that if the petitioner desired that the order of the Commissioner, State Excise, Nagpur should be acted upon or implemented, it was necessary to have deposited the fine. It is stated that in the absence of said deposit, the order of the Commissioner cannot be implemented, more so when the Commissioner had directed that the said amount should be deposited within a period of fifteen days only.

On hearing the learned Assistant Government Pleader, we find that the petitioner has not deposited the fine of Rs. 1 lakh, which was a condition for operation of the license. The said amount was liable to be deposited within fifteen days. The petitioner has not deposited the amount of Rs. 1 lakh in the Government Treasury, either within fifteen days or even thereafter. In the circumstances of the case, since the petitioner has not deposited the amount of Rs. 1 lakh within a period of fifteen days from the date of the order of the Commissioner, State Excise, the relief sought by the petitioner cannot be granted and the Collector State Excise cannot be directed to implement the order of the Commissioner and permit the petitioner to operate the license.

The Writ petition is dismissed, with no order as to costs.

JUDGE

JUDGE

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C E R T I F I C A T E

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

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