

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 5291 OF 2015.

Deepak Shamkishor Nashine ..vs.. State of Mah. and ors.

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

Court's or Judge's orders

Mr.P.A.Abhyankar, Adv. for the petitioner.
Mrs.B.Dangre, GP for resp.nos.1 to 4.

**CORAM : B.P.DHARMADHIKARI AND
P.N.DESHMUKH, JJ.**

DATED : MARCH 23, 2016.

Matter was heard on 11th of March, 2016 and
this Court has passed following order.

*“During arguments, effort of Advocate
Abhyankar for petitioner is to demonstrate
that Collector, Gondia, who is subordinate
to Commissioner, cannot seek review of
order of Commissioner. He also submits
that in the absence of a statutory provision
prescribing review, the same is not
maintainable.*

*The Facts show that petitioner
had CL-III shop at Dongargaon (Saoli),
Tq.Deori, District Gondia. Because of
some complaints and agitations, it was
ultimately allowed to be shifted and
competent Authority, namely,*

Commissioner has permitted its re-location in Gondia town. Though period of more than 10 months has expired, Collector has not given necessary authorization.”

The reply-affidavit of respondents discloses that Collector has approached Commissioner for review of the order permitting shifting of that shop to Gondia town. The review is also pending since last 10 months.

In this situation, Shri Lonare, learned Assistant Government Pleader for respondents, seeks time of one week to point out how Collector can seek review of the order of Commissioner.

*Adjourned as a last chance.
Stand over to 18/3/2016.*

Copy of this order be given to the learned Assistant Government Pleader for respondents.”

The matter was then again taken up on 18th of March, 2016 and came to be adjourned to today.

Learned Government Pleader places on record orally difficulties faced by office of Collector in view of opposition from women folk in the locality in re-location of country liquor shop there.

The order passed by respondent no.1 – Commissioner in accordance the provisions of Bombay Prohibition Act has attained finality and the said authority has allowed shop to be transferred. In this situation, respondent no.2 – Collector who is subordinate to that authority cannot supersede that order or avoid its implementation.

Hence, without observing anything on merits of the contentions raised orally before us by the learned Government Pleader, we direct respondent no.2 to abide by the order of respondent no.1 and to take necessary steps in furtherance of order dated 20th of May, 2015 to facilitate the re-location of shop of petitioner.

Writ petition is thus partly allowed and disposed of.

No costs.

JUDGE

JUDGE

Chute.