

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

WRIT PETITION NO. 6358 OF 2015

Suresh Maniklal Ukey

-vs-

The State of Maharashtra, Through its Secretary, Deptt.of Home & State Excise and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. S.G.Jagtap & Mr.S.S.Godble, counsel for the petitioner.
Ms Tajwar Khan, AGP for the respondents.

CORAM : SMT. VASANTI A. NAIK &
A.S.CHANDURKAR, JJ.

DATE : 22.02.2016.

Heard.

By this writ petition, the petitioner seeks issuance of directions to the respondent No.3-Collector to give effect to the order dated 28/08/2015 passed by the State Government.

By the order dated 20/07/2015, the Collector had cancelled the licence issued to the petitioner under provisions of Rule 102 (1) (b) of the Maharashtra Narcotic and Psychotropic Substances Rules, 1985. A direction was also given to dispose of the seized poppy stock in accordance with the Rules. This order was stayed on 28/08/2015 by the appellate Authority in an appeal preferred by the petitioner.

Shri S.G.Jagtap, the learned counsel for the petitioner, submitted that the order dated 20/07/2015 has been challenged in an appeal before the State Government. In view of the interim order which was passed in the said appeal on 28/08/2015, it was necessary for the respondents to have revived the licence issued in favour of the petitioner and it was also necessary that the poppy stock which was seized be returned back. It is submitted that the action of seizing the poppy stock is taken by the Excise Authorities and, therefore, the order

passed by the Collector having been stayed, said stock was liable to be returned to the petitioner.

Ms Tajwar Khan, the learned Assistant Government Pleader for the respondents by relying upon the affidavit filed on record, submitted that by communication dated 06/02/2016 the poppy licence issued to the petitioner, which had been revoked, had been restored. It is submitted that the petitioner was, therefore, entitled to continue his business on that basis. It is, however, submitted that the action of seizure of the poppy stock was taken under the provisions of the Narcotic Drugs and Psychotropic Substances Act, 1985 pursuant to a raid, which was conducted by the Police Authorities. She has referred to the communication dated 03/04/2014 issued by the Sub-Divisional Police Officer to the respondent No.4 in that regard. It was, therefore, submitted that insofar as release of the seized stock is concerned, it is for the petitioner to take appropriate steps under the Act of 1985.

Perusal of the communication dated 06/02/2016 issued by the respondent No.4 to the petitioner indicates that the petitioner's licence has been revived thereby enabling him to pursue his business activities. Hence, to that extent relief stands granted to the petitioner.

Insofar as the seized stock is concerned, it has been stated that further decision on the same would be taken after the appeal is decided by the State Government. Considering the fact that a First Information Report has been lodged against the petitioner for an offence punishable under Narcotic Drugs and Psychotropic Substances Act, 1985 and that the stock of poppy has been seized by the Police Authorities, the relief sought by the petitioner in that regard cannot be granted. By observing that it is open for the petitioner to take appropriate steps in accordance with law in case he desires said stock to be released, the writ petition is disposed of. No costs.

JUDGE

JUDGE