

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No.2694 of 2017**

Hotel Shalu, through the License Holder, Khalawan Kshatri, S/o Jaisingh Kshatri, aged about 45 years, R/o Village Kanki, Tahsil Tilda, District Raipur (CG).

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary Department Of Excise, Mantralay Mahanadi Bhawan, Raipur, Chhattisgarh.
2. Excise Commissioner, Chhattisgarh Abkari Bhawan, Near Magneto Mall, Raipur, District Raipur, Chhattisgarh.
3. Assistant Commissioner Of Excise, Raipur, District Raipur, Chhattisgarh.
4. Collector, Raipur, District Raipur, Chhattisgarh.

---- Respondents

For Petitioner : Mr. Shakti Raj Sinha, Advocate
 For State : Mr. Shashank Thakur, Govt. Advocate

Hon'ble Shri Justice Sanjay K. Agrawal
Order On Board

27/09/2017

(1) Learned counsel appearing for the petitioner would submit that the Supreme Court in the matter of **State of Tamil Nadu & Others Vs. K. Balu and another** reported in (2017) 2 SCC 281, decided on 15.12.2016 have issued the following directions prohibiting grant of license for sale of liquor along National and State highways with all exceptions.

“29. We, accordingly, hereby direct and order as follows:-

29.1 All States and Union Territories shall forthwith cease and desist from granting licences for the sale of liquor along National and State highways;

29.2 The prohibition contained in para 29.1 above shall extend to and include stretches of such highways which fall within the limits of a municipal corporation, city, town or local authority;

29.3 The existing licences which have already been renewed prior to the date of this order shall continue until the terms of the licence expires but no later than 01.04.2017.;

29.4 All signage and advertisements of the availability of liquor shall be prohibited and existing ones removed forthwith both on National and State highways;

29.5 No shop for the sale of liquor shall be (i) visible from a National or State highway; (ii) directly accessible from a National or State highway; and (iii) situated within a distance of 500 m of the outer edge of the National or State highway or of a service lane along the highway.

29.6 All States and Union Territories are mandated to strictly enforce the above directions. The Chief Secretaries and Directors General of Police shall within one month chalk out a plan for enforcement in consultation with the State Revenue and Home Departments. Responsibility shall be assigned, inter alia, to District Collectors and Superintendents of Police and other competent authorities. Compliance shall be strictly monitored by calling for fortnightly reports on action taken.

29.7 These directions issue under Article 142 of the Constitution.

30. We dispose of the appeals and transfer petitions in the above terms. There shall be no order as to costs.”

(2) It is further submitted that thereafter in the Special Leave Petition (Civil) No.10243 of 2017 in the matter of **Arrive Safe Society**

of Chandigarh Vs. The Union Territory of Chandigarh, the aforesaid directions have been modified and it has been held as under in paragraphs 6, 7 & 8:-

“6. The judgment of this Court dated 15 December, 2016 addresses dangers to life and safety caused by drunken driving on national and state highways and specifically deals with the problem from the perspective of the availability of alcohol. Roads within a metropolitan city essentially provide connectivity within the city. Chandigarh is an illustration. The roads categorized as V1, V2 and V3 are essentially roads within the city. They were categorized as highways by an administrative decision of 21 October 2005 primarily with a view to ensure their maintenance and development by availing of funds available from the Central Road Fund. The alteration in the nomenclature of certain roads, which has been carried out by the subsequent notification dated 16 March, 2017, has left unaffected National Highway no 21 which passes through the city and Madhya Marg which connects the States of Haryana and Punjab. The judgment of this Court dated 15 December, 2016 prohibits the grant of licences for the sale of liquor along and in proximity of the National and State Highways including those falling within the limits of municipal corporation, cities, towns and local authorities. Directions (I) and (ii) extracted earlier did not prevent the Administration from re-classifying inter-sectoral roads within the city from state highways to major district roads. The exercise carried out by Chandigarh Administration does not breach the directions issued by this Court. It is neither in violation of the terms of the order nor of the purpose and intendment behind those directions.

7. The purpose of the directions contained in the order dated 15 December, 2016 is to deal with the sale of liquor along and in proximity of highways properly understood,

which provide connectivity between cities, towns and villages. The order does not prohibit licensed establishments within municipal areas. This classification shall govern other municipal areas as well. We have considered it appropriate to issue this clarification to set at rest any ambiguity and to obviate repeated recourse to IAs, before the Court.

8. For these reasons, we find no merit in the Special Leave Petition. The Special Leave Petition will accordingly stand dismissed. IA for intervention is disposed of.”

(3) Learned counsel appearing for the petitioner would further submit that, yet the petitioner's license has not been renewed by the State Authority.

(4) Per contra, learned counsel appearing for the State would submit that the order of the Supreme Court shall be complied with in the case of the petitioner.

(5) I have heard learned counsel for the parties.

(6) After hearing learned counsel for the parties and in view of the aforesaid modification made by the Supreme Court, the State Government is directed to consider the case of the petitioner for renewal of license of liquor bar, strictly in accordance with law and direction given by the Supreme Court in the matter of **Arrive Safe Society of Chandigarh** (supra) in Special Leave Petition (Civil) No.10243 of 2017. However, the petitioner is at liberty to approach before this Court, if adverse order is passed.

(7) With the aforesaid observation, the writ petition stands finally disposed of.

Sd/-

(Sanjay K. Agrawal)
Judge