

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4232 OF 1994

Shahadukha Gulabkha Tadv

Petitioner

Versus

The State of Maharashtra and another

Respondents

Mr. A.N. Kakade advocate for the petitioner

Mr. S.K. Tambe, AGP for Respondents

CORAM : **RAVINDRA V. GHUGE, J**

(Date : 20th July, 2017.)

PER COURT :-

1 The petitioner is aggrieved by the order dated 27.5.1994 passed by the District Collector, Jalgaon, by which the shop of the petitioner under CL III license was directed to be closed down in view of a unanimous resolution passed by the village Grampanchayat, opposing the vending of liquor.

2 Mr. Kakade, learned advocate has strenuously criticized the impugned order. He has also drawn my attention to the 13 grounds raised by the petitioner in the memo of the petition. With the assistance of the learned Advocates for the respective sides, I have gone through the impugned order.

3 It is not in dispute that the residents of the concerned

village had unanimously pressed for closing of the liquor shop. They had demanded a prohibition on the activities of the petitioner of vending the liquor under the CL III license.

4 This Court in the matter of **S.M. Mallewar versus State of Maharashtra and others** (1993 AIR Bombay 327) has considered similar circumstances and has concluded that for the enforcement of the policy of prohibition, as enshrined under article 47 of the Constitution of India, the State is under an obligation to consider even the will of the people. If the vending of the liquor under CL III license is likely to create hazards to the health of the population, the State is expected to initiate appropriate steps.

5 In my view the State has acted pragmatically and has shown prudence in arriving at a decision of directing the petitioner to close down the said shop.

6 Mr. Kakade, learned counsel fairly submits that when the petition was filed in the year 1994, the petitioner was about 73 years old. Despite his best efforts, he could not develop any contact with the petitioner.

7 This Court by order dated 6.4.1995 had admitted the

petition and had stayed the impugned order by allowing prayer clause 'D'.

8 Considering the above, this petition being devoid of merit, is therefore, dismissed. Needless to state, if the petitioner is desirous of relocating his shop, he shall be at liberty to make an application, as is otherwise permissible under law and if such application is made, the respondent authority would consider the same strictly on its own merit and in terms of the present policy.

9 Rule is discharged.

(RAVINDRA V. GHUGE , J)