

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2816 OF 1994

Balaji Dadarao Sawale,
Age major, Occ. Agriculture
and Business, R/o Dhanaj (Kh.)
Tq. Khandar, Dist. Nanded. ..Petitioner

Versus

1. The State of Maharashtra
Through its Secretary,
Home Department, Mantralaya,
Mumbai 32.

2. The Collector, Nanded.

3. The Superintendent,
State Excise, Nanded. ..Respondents

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Advocate for Petitioner : Shri Talekar S.B.
AGP for Respondents: Shri Tambe S.K.
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CORAM : RAVINDRA V. GHUGE, J.
Dated: July 27, 2017
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ORAL JUDGMENT:-

1. Heard learned Advocates for the respective sides for quite some time.

2. I have gone through the petition paper book and the ten grounds raised by the petitioner. It is stated in the petition that the fundamental right of the petitioner under Article 19(1)(g) of

the Constitution of India has been violated. An opportunity of hearing was not given to the petitioner to face the resolution passed by the Gram Sabha of village Barbada on 26.1.1994. About 200 residents wanted the petitioner to sell country liquor in the said village. Hence the impugned order dated 15.8.1994 cancelling the Cl-III license No.149/94-95 is illegal.

3. It appears that there is a serious objection to the continuance of the vending of the country liquor in the shop operated by the petitioner in village Barbada. After considering the said objection and the resolution passed by the Gram Sabha that the said shop should not be permitted to vend country liquor, I do not find that the District Collector has committed any error in issuing the impugned order.

4. This Court in the matter of S.N. Nilewar Vs. State of Maharashtra [AIR 1993 Bom. 327], has concluded that Section 56 of the Bombay Prohibition Act, 1949 can be invoked for the enforcement of the policy of prohibition enshrined under Article 47 of the Constitution of India. In a judgment dated 23.9.1980 passed by this Court in Writ Petition Nos.128 to 140 of 1990, it was held that the action of cancellation of Cl-III license is in accordance with the State policy to close down the country

liquor shops at villages, which has passed resolutions. Such policy is in the public interest and to avoid resentment amongst the villagers.

5. Learned counsel for the petitioner submits that keeping in view the law laid down by the Honourable Apex Court in the matter of State of Tamil Nadu Vs. K. Balu and another [(2017) 2 SCC 281], whereby certain restrictions have been imposed on continuing shops for vending liquor, the petitioner may be permitted to apply for relocation and renewal of the Cl-III license at a different place.

6. In the light of the said request, this petition is disposed off without causing interference in the impugned order. By virtue of the interim relief, granted by this Court on 8.9.1994, in the event the petitioner still continues to hold the Cl-III license or has not relocated his shop elsewhere, he would be at liberty to make an application to the appropriate authority for continuance / renewal of the Cl.- III license on the condition that he would apply for a relocation of his shop at a place where there is no opposition from the public at large. Such application shall be filed within eight weeks from today.

7. Rule is, therefore, discharged.

(RAVINDRA V. GHUGE, J.)

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