IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5528 OF 2017

Yogesh Kumar Kishanlal Jaiswal and Another ..PETITIONERS

VERSUS

State of Maharashtra and Others ..RESPONDENTS

WITH
WRIT PETITION NO. 5529 OF 2017

Rameshlal Kanhaylal Jaiswal and Another ..PETITIONERS

VERSUS

State of Maharashtra and Others ..RESPONDENTS

WITH
WRIT PETITION NO. 5530 OF 2017

Vijay Narayandas Rizwani and Another ..PETITIONERS

VERSUS

State of Maharashtra and Others ..RESPONDENTS

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Mr. A.H. Kasliwal, Advocate for petitioners.
Mr. M.B. Bharaswadkar, A.G.P. for respondent - State.

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CORAM : M.S. SANKLECHA, J.
DATED : 02nd MAY, 2017

ORDER :

1. These three writ petitions challenge three separate orders all dated 31st March, 2017 passed by the Collector, Jalna, Collector, Hingoli

and Collector, Nanded. By the impugned orders, liquor licences issued to the petitioners were cancelled on identical grounds viz. the decision of the Supreme Court in ***State of Tamil Nadu Vs. K. Balu 2017 AIR 262*** rendered on 15th December, 2016 which restricted/prohibited liquor shops/licences within 500 meters from the national and state highways from selling liquor with effect from 1st April, 2017.

2. Thereafter the Apex Court issued a clarification to its order above dated 15th December, 2016 on 31st March, 2017. All these three petitions have been filed in view of clarification issued on 31st March, 2017 by the Apex Court to its earlier order dated 15th December, 2016.

3. Mr. Kasliwal, learned Counsel for the petitioners states that clarification issued by the Apex Court on 31st March, 2017 to its order dated 15th December, 2016 in State of Tamil Nadu (supra) licences issued to them by the State Excise Department which are valid beyond 31st March, 2017 would continue to permit them to sell liquor within 500 meters from the national and state highways, till their existing licence expires. It is pointed out that some petitioners before this Court in Writ Petition Nos. 5528 of 2017 and 5530 of 2017 had approached the Supreme Court for relief in terms of the clarification dated 31st March, 2017 of the Supreme Court order

dated 15th December, 2016. By an order dated 21st April, 2017 the Supreme Court has allowed the petitioners to withdraw their petitions with liberty to approach this Court. The principal contentions urged by Mr. Kasliwal is that the petitioners have been granted lincences by the State Excise Department which are valid beyond 31st March, 2017 and therefore in terms of the Apex Court, clarification dated 31st March, 2017, the petitioners are entitled to carryout their business in terms of paragraph nos. 23 to 25 thereof.

4. I note that the Apex Court in its clarification dated 31st March, 2017 has clarified that the cut-off date 31st March, 2017 was fixed by it on the basis that excise year ends on 31st March of each year in all the States of India. However it was brought to the notice of the Apex Court that excise year ends on different dates in different states to illustrate in Telangana on 30th September, in Andhra Pradesh on 30th June of each year. Therefore the Supreme Court has modified its earlier order by specifically providing that where the excise year of the concerned State is to end on a date falling on or after 01st April, 2017, the existing licence shall continue until the term of the licence expires but in any event not later than 30th September, 2017. Further paragraph no. 25 of the Apex Court clarification dated 31st March, 2017 was restricted only to the State of Meghalaya and Sikkim considering the bad condition prevailing in view of its hilly terrain. Further, the

clarification dated 31st March, 2017 restricted/exempted only the above two States from the prohibition to sell liquor within 500 meters of national and state highways. Therefore, it can have no application to the State of Maharashtra.

5. Moreover, it is undisputed position that the excise year in State of Maharashtra ends on 31st March each year. Consequently the clarification which was issued on 31st March, 2017 would have no application as it restricts itself to the States where excise year ends on or after 01st April, 2017.

6. In any case the issue raised in this petition is nolonger res integra as Division Bench of this Court has discussed in Ratansing Triloksing Sethi and Others Vs. State of Maharashtra and Others in Writ Petition No. 5550 of 2017 and other connected matters had by order dated 26th April, 2017 negatived an identical submission as made by Mr. Kasliwal before me was negatived by interalia holding as under:

> *"8. In view of above, on proper interpretation of the order passed by the Supreme Court on 31.3.2017, since it has not been demonstrated that the excise year in the State of Maharashtra extends beyond 31st March, it would not be*

permissible for the petitioners to operate their business under the licenses issued by the State beyond 1.4.2017.

9. In view of above, request made by the petitioners in the instant writ petition does not deserve consideration.

10. The writ petitions are therefore rejected."

7. In the above view, all the three writ petitions are dismissed. No order as to costs.

(M.S. SANKLECHA, J.)

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