

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

WRIT PETITION NO. 5803 OF 2016

1. Shri Pravin Laxman Jaiswal
age major, occ.business
Proprietor of Hotel Pancharatna at
Village Chapadgaon, Tq. Shevgaon
Dist. Ahmednagar
2. Smt. Sangita Ramkisan Tanwade
age major, occ. business and household
Proprietor of Hotel Kanchan at
Village Chapadgaon, Tq. Shevgaon
Dist. Ahmemdnagar
3. Smt. Tarabai Ravindra Deshmukh
age major, occ. business and household
l/h country liquor shop at
Village Chapadgaon, tq. Shevgaon
Dist. Ahmednagar

.. PETITIONERS

VERSUS

1. The State of Maharashtra
(Through Excise Department
Mantralaya, Mumbai)
2. The Collector Ahmednagar
Dist. Ahmednagar
3. The Superintendent State Excise
Ahmednagar
Dist. Ahmednagar
4. The Superintendent State Excise
Shrirampur,
Dist. Ahmednagar.
5. The Sarpanch Gram Panchayat
Village Chapadgaon, Tq. Shevgaon
Dist. Ahmednagar

.. RESPONDENTS

Mr. A.H. Kasliwal, advocate for petitioners.
Mr. A.V. Deshmukh, AGP for the State.

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CORAM : S. B. SHUKRE, J.
DATE : 24th JANUARY, 2017.

ORAL JUDGMENT :

1. Heard.
2. Rule. Rule made returnable forthwith. Heard finally by consent.
3. It is not in dispute that the learned Collector, respondent no. 2, cancelled the liquor license granted in favour of petitioners by his order passed on 19.06.2016, without granting an opportunity of hearing to the petitioners. Now it is no longer *res integra* that such an opportunity is *sine qua non* before any order having civil consequence is passed by the concerned authority. In case of Mahadevrao Govindrao Raut Vs. State of Maharashtra, **2005(2) ALL MR 351** it has been held that before any order in the matter of closure of liquor shop or its shifting is passed, an opportunity of hearing must be granted to the person operating the license. Similar view has been taken by another Division Bench of this Court in the case of Shakur Masjid Saudagar and others Vs. The State of Maharashtra and others in its judgment rendered on 25th February, 2016 in Writ Petition No. 5376/2013. There is even a Government Circular dated 7th September, 1994, pointed out by learned counsel for petitioner, which seeks to put into effect the settled law of granting an opportunity of hearing to the affected party. It is seen from the impugned order that the settled norms of law have not been followed by respondent no. 2 before ordering cancellation of liquor license granted to the petitioners.

4. Of course, as submitted by learned AGP for respondents 1 to 4, there is appeal provision under section 137(2) against such order. But one of the issues involved in this case is of violation of fundamental right of petitioners and therefore, this petition would be maintainable before this Court.

5. Learned AGP further submits that the petitioners were well aware of the meeting of the Gram Sabha in which resolution for closing down of their shops was passed and that, petitioners had also attended the meeting. Will any one dispute and to my mind no one will, being aware of what happens in Gram Sabha is quite different from depriving a party of an opportunity of hearing, which is a part of fundamental right of petitioners, which right, I have found, has been violated in the instant case.

6. In the result, this writ petition deserves to be allowed by quashing and setting aside the impugned order. It is allowed accordingly. Impugned order dated 19.06.2016 passed by respondent no. 2 is quashed and set aside and the matter is remitted back to respondent no. 2 for deciding it afresh, in accordance with law and, after giving adequate opportunity of hearing to petitioners. Respondent no. 2 may decide the matter within two months from the date of receipt of the order. Rule is made absolute in above terms. No costs.

7. Pending civil application, if any, does not survive and stands disposed of.

8. Parties to act upon authenticated copy of this order.

(S. B. SHUKRE)
JUDGE

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