

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6697 OF 2017

Sau Nita Subhash Jaiswal

.. Petitioner

VS.

State of Maharashtra and others

.. Respondents

Mr. R.R. Mantri, Advocate i/b. Mr. R.R. Sancheti, Advocate for the petitioner

Mr. A.R. Kale, A.G.P for the respondent/State

**CORAM : S.C. DHARMADHIKARI &
MANGESH S. PATIL, JJ.**

DATE : 14-06-2017

ORAL ORDER :

1. By this Petition, the petitioner challenges the order passed under Section 142 (2) of the Maharashtra Prohibition Act, 1949.
2. The petitioner's shop was directed to be closed for a period of 30 days by the MIDC CIDCO, Aurangabad (City) Police Station.
3. The petitioner's shop is stated to be located within the vicinity of a school (Zilla Parishad school). The petitioner firstly denies this fact, secondly the petitioner states that there was no untoward incident nor any possibility of mob gathering and creating a law and order problem much less on 18/05/2017 at 5:30 pm because the

petitioner possesses license and to sell as also stock country liquor and that licence is in force from 2007 – 2008. Statement of fact is made in the Petition that this shop is existing for more than 14 years. The factual statements in paragraph nos.2 and 3 are not denied despite an opportunity being given to the State and repeatedly.

4. The Vacation Judge of this Court on 24th May, 2017 passed an ad-interim order in terms of prayer clause (B). The result is that the impugned order of 20/05/2017, directing closure of the liquor shop for 30 days, could not take effect or operate. Now, substantial period of 30 days closure, as directed, is over. Today is 14th June, 2017. Even if both days are included, closure shall cease to operate on 19th June, 2017 or 20th June, 2017. The shop thus can reopen within few days.

5. Though learned A.G.P. submits that we must look at the police record and papers, we do not wish to go into the same for the impugned order must speak for itself. No reasons can be supplied or introduced lateron. The order is absolutely vague making reference to a visit on 18/05/2017 but in what context and to investigate which complaint, has not been clarified at all. We have found that such orders are stereotype and passed mechanically without application of mind. It is in these circumstances, we do not accede to the request of the

respondent's Advocate. In the light of the fact that the order dated 20/05/2017 is stayed by this Court and the liquor shop continues to exist and the petitioner continues to carry on its business irrespective of the impugned order, no useful purpose would be served by its scrutiny as to legality and validity.

6. In the peculiar facts and circumstances and emerging from the record of this case, we quash and set aside the impugned order. We leave the remedies and powers of the concerned Police Officials as also respondent - State untouched. We do not express any opinion on the ambit and scope of the powers of the respondent - State to proceed against licence holders like the petitioner.

7. In such circumstances, it will be open for the respondent to take such measures as are permissible in law. The Writ Petition is disposed of in these terms with no order as to costs.

[MANGESH S. PATIL]
JUDGE

[S.C. DHARMADHIKARI]
JUDGE

arp/