

WRIT PETITION NO.6469 OF 2010

Versus

Mr. P.D. Bachate advocate for the petitioner
Mr. S.P. Deshmukh, AGP for Respondents No.1 to 5
Mr. K.N. Nagarkar advocate for respondent No.6

(Date : 21st June, 2017.)

PER COURT :-

1 In this petition, the petitioners have put forth a substantial
prayer in terms of prayer clause 'C' as under:-

" C) By way of writ of certiorari or any other appropriate writ, order of directions in the like nature, the Hon'ble Court may kindly quash and set aside the impugned order dated 23.6.2010, passed by the Hon'ble Minister for State Excise, Maharashtra State, Mantralaya, Mumbai in Revision No.RVN-0510/RA-30/EXS-3, "

2 This matter was earlier heard by the learned Division Bench
of this Court, which passed the following order on 6.8.2010:-

" 1. This appears to be a petition in public interest and has been placed before us by virtue of the order of the learned Single Judge, dated 26.7.2010. In

order to test the bonafides of the petitioners, we direct the petitioners to deposit an amount of Rs.25,000/- (Rupees Twenty five thousand) in this Court within four weeks from today, failing which this writ petition would stand dismissed without further reference to Court. The amount, if deposited by the petitioners, would be subject to such orders, which the Court may pass. "

3 Pursuant to above, the petitioners have deposited an amount of Rs.25,000/- in this Court.

4 On 20.4.2017, after hearing learned Advocates for the respective sides, this Court has observed in its order as under:-

" 1. Heard.

2. The petitioners assail the order allowing the Respondents to shift their CL-III license. The place where the CL-III license is shifted is only 12.80 meters from the central line of the National Highway.

3 In view of the judgment of the Apex Court, the liquor can not be sold for a distance of 500 meters from National Highway. In view of this bar, the Respondent No. 4 would not be in a position to vend his liquor at the place where it is shifted. Mr. Bachate, learned counsel states that he would take instructions about the status of the Respondent-shop and also about the status of said Highway.

4 Stand over to 24.4.2017. "

5 I have considered the submissions of learned counsel for the respective sides.

6 There is no dispute that the place at which respondent No.6 has shifted CL-III license/liquor shop falls within the area of the zonal training school on a national high way. Considering the law laid down by the Honourable Apex Court in the matter of **The State of Tamilnadu versus K. Balu and another** (Civil Appeal Nos.12164-12166 of 2016 arising out of SLP (C) Nos. 14911 – 14913 of 2013 (dated 15.12.2016)) respondent No.6 cannot operate a liquor shop and cannot vend liquor within 500 meters from the National High way.

7 Considering the above, learned counsel for respondent No.6 submits that, he would not be in a position to justify the shifting of a shop which was by 12.80 meters from the National highway and as such, he would have to make an alternate arrangement to shift the shop to a place where there is no opposition. He submit that for this purpose, he will have to move the appropriate authority by making an application so as to seek permission.

8 Learned counsel for the petitioners submit that the grievance in this petition is, only as regards the place, at which the shop was shifted. If the shop is shifted to a place where there

is no objection or opposition, the issue would be put to rest. He submits that the impugned order passed by the Honourable Minister, allowing the relocation of the shop as was earlier defended by respondent No.6, cannot be sustained in the light of the Honourable Apex Court order. On this count, he therefore, submits that, he would not press the contention that respondent No.6 had allegedly forged documents. He would reserve his rights to raise such issue, if at all any situation so demands, in future.

9 Considering the above, this petition is partly allowed in terms of prayer clause 'C' reproduced above.

10 Respondent No.6 can move an application to the appropriate authorities for relocation of his shop / renewal of his CL-III license, as he may desire. In the event, such an application is made, the concerned authority would decide such application, on its own merits and in accordance with its policy, the rules applicable and the law laid down by the Hon'ble Apex Court.

11 The petitioners are at liberty to withdraw the amount of Rs. 25,000/- along with accrued interest.

(RAVINDRA V. GHUGE , J)