

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.8456 OF 2016

- 01 Maruti Mahadev Kakde,
age: 42 years, Occ: Business;
- 02 Pradeep Ramnath Hazare,
age: 42 years, Occ: Business;
- 03 Rupesh Eknath Bhalekar,
age: 36 years, Occ: service;
- 04 Yogesh Arun Salunkhe,
age: 38 years, Occ: service;
- 05 Ravindra Nimba Patil,
age: 37 years, Occ: service;
- 06 Rajendra Pukhraj Kochar,
age: 50 years, Occ: Business;
- 07 Milind Govindrao Kale,
age: 56 years, Occ: service;
- 08 Jayprakash Anup Lalwani,
age: 44 years, Occ: service;
- 09 Makrand Krishnarao Joshi,
age: 38 years, Occ: service;
- 10 Sandip Ashok Lahase,
age: 34 years, Occ: service;
- 11 Ramkrishna Keshavrao Tathodepatil,
age: 42 years, Occ: service;
- 12 Deepak Pundlik Thakare,
age: 50 years, Occ: service;
- 13 Mandar Gopalrao Hattekar,
age: 29 years, Occ: service;
- 14 Shivaji Yadavrao Jadhav,

age: 62 years, Occ: Pensioner,

15 Chandrakant Jagannath Dhakane,
age: 48 years, Occ: service,

16 Prabhakar Jaisingrao Gorde,
age: 56 years, Occ: service;

17 Ratnakar Achyutrao Joshi,
age: 48 yers, Occ: service;

18 Vithalrao Lakshmanrao Toge,
age: 36 years, Occ: Business;

19 Ramesh Baburao Sindphalkar,
age: 72 years, Occ: Pensioner;

20 Shantanu Krishnarao Pole,
age: 58 years, Occ: service;

21 Vilas Bhaurao Chavan,
age: 45 yeas, Occ: service;

All residents of Gat No.103,
Sara Siddhi Housing Society,
Beed By-Pass Road, Devlai,
Aurangabad.

Petitioners

Versus

01 The State of Maharashtra,
through Department of
State Excise, Mantralaya,
Mumbai 400 032.

02 Hon'ble State Minister,
State Excise,
Maharashtra State,
Mantralaya,
Mumbai 400 032.

03 The Commissioner
(State Excise Department),
Maharashtra State,

Mumbai 400 032.

04 The Collector, Aurangabad,
Taluka & District Aurangabad.

05 The Collector, Dhule,
Taluka & District Dhule.

06 Superintendent,
State Excise Department,
Aurangabad.

07 Superintendent,
State Excise Department,
Dhule.

08 Kishor Martand Kalkar,
age: major, Occ: Business,
R/o Kalkar Galli,
Erandol, District Jalgaon.

09 Anil Pralhad Nagrani,
age: major, Occ: Business,
R/o Bahaleshwar Nagar,
Sahakarnagar, Bhusawal,
District Jalgaon.

10 Parmeshwar Hariram Waghmode,
age: 42 years, Occ: Business,
R/o 83, Layan Nagar,
Waluj (Bk.), 431 133,
Tq.Gangapur, District Aurangabad.

Respondents

Mr.D.P.Palodkar, advocate for the petitioners
Mr.S.K.Tambe, A.G.P. for Respondents No.1 to 7.
Mrs.Anjali Dubey, advocate for Respondents No.8 & 9.
Mr.H.P.Jadhav, advocate for Respondent No.10.

CORAM : S.B.SHUKRE, J.

DATE : 16th February, 2017

ORAL JUDGMENT :

1 Heard. Rule. Rule made returnable forthwith and heard finally by consent of learned Counsel for respective parties.

2 During pendency of this petition, as a part of subsequent development resulting from the judgment of the Hon'ble Apex Court rendered in the case of **State of Tamilnadu Vs. K. Balu & another** along with other connected appeals, on 15.12.2016, application of which, to the facts of the present case, is not in dispute, the FL-II license granted to Respondents No.8 and 9 has become inoperative from the place where it has been shifted for its being run, with effect from 01.04.2017. This place, as seen from the impugned order dated 07.07.2016, is one – Municipal House No.7703, Sara Siddhi Project, G.No.103, Plot No.1, Deolai, Aurangabad.

3 Learned Counsel for the petitioners submits that petitioners are restricting their challenge in this petition only to running of the license from the said place and that their challenge would not be extended to shifting of FL-II license from Dhule District to Aurangabad district.

4 In view of the subsequent development and the submissions made across the bar on behalf of the petitioners, I am of the view that the purpose of this petition would be served by modifying the impugned order in the following terms:

- i. The order, insofar as it allows shifting of FL-II license from Dhule district to Aurangabad district, is confirmed.

- ii. The impugned order, permitting shifting of FL-II license to a particular place, Municipal House No.7703, Sara Siddhi Project, G.No.103, Plot No.1, Deolai, Aurangabad, however, is quashed and set aside only to that extent; and it is directed that Respondents No.8 and 9 shall be permitted to run FL-II license from a suitable place to be approved by the competent authorities, situate within Aurangabad district. Liberty to move the competent authority, in this regard, is granted to Respondents No.8 and 9.
- iii. The time for shifting of the current FL-II license shall be in terms of the judgment of the Hon'ble Apex Court in the case of **State of TamilNadu Vs. K. Balu & another** (cited *supra*); and it is expected that before the deadline, the competent authority shall take appropriate decision in the matter.

5 The other contentions of rival parties are kept open.

6 Writ Petition is allowed partly to the extent above.
Rule is made absolute in above terms. No costs.

S.B.SHUKRE
JUDGE

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