

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
PUBLIC INTEREST LITIGATION NO. 111 OF 2016**

Shri. Narasayya Adam	}	Petitioner
versus		
The State of Maharashtra	}	
and Ors.	}	Respondents

Mr. Sarang Aradhye for the petitioner.

Mr. P. P. Kakade-AGP for State.

**CORAM :- DR. MANJULA CHELLUR, C.J. &
N.M.JAMDAR, J.**

DATE :- JULY 27, 2017

P.C. :-

1. Heard learned counsel appearing for the petitioner as well as Government advocate.

2. This Public Interest Litigation is filed complaining the irregularities found in the Toddy shops so also violation of the Maharashtra Toddy Shops (Licence) and Toddy Trees (Tapping)

Rules, 1968 and the petitioner has sought the following reliefs:-

“a. This Hon'ble Court may be pleased to issue a Writ of mandamus or any other appropriate writ/order/direction in the nature of writ calling upon the Respondents to carry out/conduct fresh survey of entire Toddy trees in the Solapur District through an independent agency and be further directed to submit the report/actual number of matured Toddy trees before this Hon'ble Court;

b. That by appropriate orders as well as directions of this Hon'ble Court, the Respondents more particularly the Respondent No. 3 and 4 i.e. Superintendent, State Excise, Solapur and Collector, Solapur be ordered and directed to initiate stringent action forthwith against the suppliers of contaminated Toddy in Solapur District and be further

directed to close down forthwith the illegal as well as excess Toddy shops in the Solapur District;

c. That by appropriate orders as well as directions of this Hon'ble Court, the Respondents more particularly the Respondent No. 1 and 2 be ordered and directed to set up independent machinery at each District place to easily identify the contamination in pure Toddy and be further directed to accept and act upon the recommendations made by the aforesaid committee.

.....”

3. According to the petitioner, in the year 2003, a circular was issued by the Government with a specific direction to carry out survey of Toddy trees in respective districts and he complains that so far as Solapur district is concerned, there was no survey conducted. According to him, between 2015 and 2016, the respondent authorities have issued 22 licenses for Toddy shops on the presumption that there are 23523 Toddy trees in Solapur district. According to the petitioner, the number of trees pointed out include immature trees, which cannot be used for extracting Toddy. If the extract is taken from the immature trees for making Toddy, according to him, it will not have the same effect as extracted from the matured trees. Therefore, there is likelihood of mixing up the same with chemicals in order to make the extract strong, which leads to death of consumers. According to the petitioner, since the demand is more than the supply of proper Toddy, the persons interested in the business tend to adopt illegal methods of making Toddy, which ultimately affects

the health of the consumers. He further contends that the city of Solapur is situated at the boundaries of two States i.e. Andhra Pradesh and Karnataka and large number of labourers/workers are residing in Solapur, who are from neighbouring districts. In spite of several representations in this regard, no action came to be taken. Therefore, the petitioner, being inspired by the media reports about Solapur district, is before this court seeking the above reliefs.

4. The first prayer is with regard to conducting a fresh survey of the entire Toddy trees in Solapur district through an independent agency and report number of matured trees. So far as this prayer is concerned, the reply affidavit filed on behalf of the respondent State says that during the year 2015-16, there were 25 shops in existence and the number of trees were 23500 and during the year 2016-17, the number of shops, which got renewed and the licenses issued, are 19 and Toddy trees were 32495. According to the report, which is mentioned in the reply affidavit, there are more than sufficient Toddy trees when compared to the number of licenses issued by the concerned Department. It is said that the criteria for issuing licence is that there should be minimum 1000 trees per shop so that there will not be any illegal method in preparing the Toddy.

5. Then, coming to the second prayer i.e. action to be taken against the suppliers of contaminated Toddy in Solapur district, as a matter of fact, which shop owners are supplying contaminated Toddy is not mentioned. A general statement is made in the petition. However, in the reply affidavit, the Department has explained as to what action was taken and against how many shops, including the action taken to remove the Toddy shops, which were situated within 50 meters distance from educational and other religious institutions, bus stands, bus depots, national highway and State highway boundaries. They further contend that a special drive was conducted to make random inspection by providing a special kit to do preliminary test on the spot. Once the said preliminary test gives positive result, the sample will be properly seized and sent for chemical analysis, either at Mumbai or at Pune. According to the Department, the distance between Pune and Solapur takes only five hours travel to reach the laboratory. Therefore, whenever suspected contaminated Toddy is seized, the samples are sent to the concerned laboratory for analysis. Depending upon the report of the laboratory, actions are also initiated and taken. Therefore, prayer clause (b) is also taken care of by the action already taken and the continuation of the said action in future. If the petitioner comes across any particular shop selling

adulterated Toddy, not only the petitioner, but any one can bring it to the notice of the Department concerned, so that they can initiate action.

6. Paragraph 16 of the reply affidavit clearly indicates that six Toddy shops were closed by suspending the licenses and sealing the shops, when it was found that they were selling contaminated Toddy. They further contend that the licenses will be renewed only in respect of those shops where the sale of Toddy is done in accordance with the rules and regulations and the licenses will not be renewed if the authorities find any particular licence holder adopting illegal and unethical method of manufacturing Toddy.

7. Then, coming to prayer clause (c), no doubt, the report of the Committee in 2007-08 indicates that ideal situation is to have a laboratory at each district level. It is left to the policy makers whether they can have laboratories at each district level or one laboratory for 2-3 districts at properly identified places. Since this is a policy decision on the recommendations of the Committee, we decline to issue any direction in respect of the same.

8. With the aforesaid observations, the Public Interest Litigation is disposed of.

(N. M. JAMDAR, J.)

(CHIEF JUSTICE)