IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5733 OF 2017

Kiran Y. Nikam ..Petitioner
Vs
The State of Maharashtra and ors. ..Respondents

WITH

WRIT PETITION NOS. 5734, 5735, 5736, 5737, 5738, 5741, 5739, 5745, 5831, 5832, 5833, 5834, 5835, 5837, 5838, 5839, 5840, 5836, 5847,5848, 5849, 5850, 5851, 5852, 5853, 5854, 5855, 5856, 5857,5882,5883,5884,5885,5886,5887, 5888,5889,5890,5891, 5892,5893, 5895, 5843 TO 5846, 5858 TO 5860, 5975, 6152 TO 6154, 6175 TO 6177, 5740, 5743, 5744, 5755 TO 5760 , 5865 TO 5879, 5960, 5754, 5964 TO 5972, 5976 TO 5985, 5987, 6028 TO 6032, 6081 TO 6095, 6097 TO 6103, 6105, 5803 TO 5813 AND 5881, 6208, OF 2017

WITH

WRIT PETITION (ST) NOS.14484, 14496, 14497, 14499, 14509, 14510,14511, 14512, 14528, 14548,14549, 14550, 14551, 14554, 14558, 14561, 14562, 14563, 14568, 14569, 14572, 14576, 14577, 14579, 14580, 14581, 14582, 14583, 14584 TO 14586, 14588, 14591, 14594, 14596, 14598, 14600, 14606, 14607, 14609, 14907, 14910, 14913, 14472 TO 14475, 14595, 14334, 14521, 14522, 14527, 14529, 14531, 14534, 14538, 14542, 14546, 14597, 14602, 14604 TO 14605, 14608, 14610, 14612, 14613, 14615, 14617, 14618, 14942, 14948, 14994, 14995, 14998, 14465 AND 14468, 15437, 15435, 15462, 15463, 15446, 15547, 15548, 15551, 15552, 15443, 15376, 15450, 14632, 14800, 14519,14922, 14539, 15451, 15297, 15293, 15290, 15287, 15575, 15576, 15578, 15579, 15001, 15004, 15057, 15061, 15063, 15065, 15083, 15121, 15106, 15125, 15090, 15087, 15088, 15085, and 15122 OF 2017

AND
WRIT PETITION (ST) NOS. 8435 AND 14436 OF 2017

Mr. Vinod P. Sangivkar, Mr. Sudhir Bhalerao for the Appellant in WP No. 5733 with 5734 of 2017 and connected matters.
Mr. Milind Deshmukh for the Petitioner in WP 5739 with 5745 of 2017 with connected matters.
Mr. Shashikant Chaudhari, Mrs Snehal Chaudhari, Mr. N.G. Tank, Mr. P. Pawar, Ms Usha Bhose, Ms Varsha Mishra i/b. M/s. Maharashtra Law Associates for the Petitioners in WP 5831, 5836, 5976, 5978 of 2017 a/w. Connected matters.
Mr. Mahesh H. Chandanshiv i/b Sontakke in WP (st) 14907 of 2017. and WP 6208 of 2017.
Mr. Milind M. Sathey for the Petitioner in WP 5843/2017 and connected matters.
Mr. Umesh R. Mankapure for the Petitioner in WP 5858 of 2017 a/w. Connected matters.
Mr. Karl Tamboli a/w. Ms Rajni Divkar, Mr. Ravi Kotian, Ms Yasmeen Mohd. Sabir and Ms Priyank Pol i/b Little and Co. for the Petitioners in WP (ST) 8435, 14994, 14995, 14998 of 2017.
Mr. K. U. Nikam for the Petitioner in WP 5975/17
Mr. Rajesh A. More for the Petitioner in WP 6152/17, WPst. Nos.1554/17, 15548/17,15551/17, 15552/17 and connected matters.
Mr. D.B. Sawant a/w. Mr. Vinayak R. Salokhe, Mr. Santosh Patil for the Petitioners in WP 6153, 6154/17, WPst Nos.14994/17, 14995/17, 14998/15.
Mr. S.L. Patil for the Petitioner in WP 6175/17.
Mr. Rajesh A More for the Petitioner in WP 6176, 6177 of 2017 and WP 14595 of 2017 with connected matters.
Mr. R.D. Soni a/w. Mr. S. Gawade i/b Shree & Co. for the Petitioner in WP (ST) 14436 of 2017 WPst Nos.15001/17 and connected matters.
Mr. P.K. Dhakephalkar, Sr. Adv. a/w. Mr. S.R. Ganbavale for the Petitioner in WP 6105 of 2017.
Mr. Amit Sale for the Petitioners in Wpst No.15297/17 and other connected matters.
Mr. R.G. Patil for the Petitioners in WP 5803/17 and connected matters.
Mr. A.A. Kumbhakoni, Advocate General a/w. Mr. A.B. Vagyani, GP, Mr. P.P. More, AGP and Mr. G.R. Gopalkar, AGP for the State of Maharashtra.

CORAM : SHANTANU S. KEMKAR &
M. S. SONAK, JJ.
DATE : JUNE 12, 2017.

COMMON ORDER :

1] Although, some of the matters are not on board, with the consent of learned counsel for the parties, they are taken on board.

2] In this bunch of petitions, the petitioners have challenged the closure of their establishments/shops/hotels /permit rooms for doing business of liquor by the respective Collector/Superintendent of Excise on the ground that they fall within 500 meters from the State Roads.

3] The grievances of all the petitioners is that their premises/establishments/shops/hotels / permit rooms are not falling within the State Highways or National Highways and they are 500 meters away from the State Highway and that the directions of the Supreme Court are not at all applicable to them. They contend that without taking into consideration all these aspects, the respondent authorities have passed a blanket order for closing down, sealing and stopping their liquor business.

4] Mr. Kumbhakoni, learned Advocate General, submits that the impugned orders have rightly been passed taking into consideration the fact that the petitioners establishments stand covered by the orders dated 15th December 2016 and 31st March 2017 made by the

Hon'ble Supreme Court in ***State of Tamilnadu Vs. K. Balu (Civil Appeal Nos.12164 – 12166 of 2016).***

5] Having considered the submissions made by the learned Counsel for the parties, we find that the impugned orders have been passed without ascertaining in each case as to whether premises in-question fall within 500 meters of the State Highways or are otherwise covered by the aforesaid orders made by the Hon'ble Supreme Court. However, considering that there are serious factual and other disputes involved, we are inclined to dispose of this bunch of petitions by directing Secretary, PWD (Road) Department, who will be assisted by the Commissioner for State Excise, State of Maharashtra to decide the grievances of the petitioners and the petitioners' contention that the Hon'ble Supreme Court's directions are not applicable to them. Let this aspect of the matter be considered in each case by the said Secretary with assistance of the Commissioner for State Excise. It is open for the petitioners to appear through their representatives/associations.

6] For the aforesaid purpose, the present petitions may be treated as representations on behalf of the petitioners. In case, the petitioners desire to make any additional submissions or furnish any additional material, they may do so within a period of one week from today. The Secretary, PWD (Road) Department, shall consider such representations and the petitioners' contention that they are not covered by the orders made by the Hon'ble Supreme Court and pass a reasoned order thereon, as expeditiously as possible and in any case upto 5th July 2017.

7] It is made clear that only the cases in which the petitioners have been protected by interim orders, such protection shall continue until final decision by the Secretary.

8] In Writ Petition (St) No.14336, learned counsel for the petitioner submits that he will make good of default of court fees by tomorrow. Failing which, the petition will stand dismissed. The list of members of the association is taken on record and the same is marked as 'X' for identification.

9] With the aforesaid directions, all these petitions are disposed of, without expressing any opinion on the merits of the matters. All contentions of all parties are left open for determination by the Secretary, as aforesaid.

10] The Secretary to act on basis of authenticated copy of this order.

(M. S. SONAK, J.) **(SHANTANU S. KEMKAR, J.)**