

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2134 OF 1997

Kana Nagu Mhatre] Petitioner

Vs.

State of Maharashtra & Ors.] Respondents

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None for the petitioner.

Ms. K.P. Kulkarni, A.G.P for State-respondents No.1 to 3.

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CORAM : R.G. KETKAR, J.

DATE : 29th MAY, 2017.

P.C.

Heard Ms. Kulkarni, learned A.G.P for respondents
No.1 to 3.

2. By this petition under Article 227 of the Constitution of India, petitioner has challenged the judgment and order dated 23rd July, 1996 passed by Collector Raigad, Alibaug as also the

judgment and order dated 30th January, 1997 passed by the Commissioner of State Excise, Maharashtra State, Mumbai. By these orders, the Authorities below have cancelled F.L.III licence bearing No. 154-95-96 permanently. Petitioner has prayed for setting aside these orders thereby restoring petitioner's licence forthwith. During the pendency of this petition, petitioner has prayed for permission to allow him to continue business under the said licence and has prayed for stay of the impugned orders.

3. In paragraph 10 of the petition, petitioner has asserted that he has preferred Revision Application under Section 138 of the Bombay Prohibition Act, 1949 before the State government and the same is still pending for hearing and final disposal. Revision Application is filed on or about 21st March, 1997. The matter was heard for admission on 28th April, 1997. After hearing both the sides, this Court admitted Writ Petition by issuing Rule and interim relief was refused.

4. The matter was heard on 24th May, 2017 and adjourned till today so as to enable Ms. Kulkarni to take instructions as regards pendency of Revision filed by the Petitioner under Section

138 of Bombay Prohibition Act, 1949. Upon taking instructions, she submits that the Revision preferred by the Petitioner challenging the orders impugned in this Petition is allowed. Ms. Kulkarni has tendered copy of communication dated 28th May, 2017 addressed by Mr. Nilesh Sangde, Superintendent [Excise], Raigad received by her, which is taken on record and marked 'X' for identification. It is set out in this communication that Revision Application was allowed by the State Government by imposing penalty of Rs. 75,000/- and the licence was ordered to be renewed. Accordingly, Petitioner has paid penalty of Rs. 75,000/- and renewal charges of Rs. 35,000/- on 21st November, 1997 and the licence was accordingly renewed. Communication also sets out that as per the Apex Court order dated 15th December, 2016 as the premises in respect of which FLIII licence was issued is within 500 meters from National/State Highway, licence is not effective from 1st April, 2017.

5. In view of the subsequent development, it is not necessary to examine the validity of the impugned orders as the same are set aside in the Revision preferred by the Petitioner. Petition is accordingly disposed of as infructuous. Rule is

discharged. In the circumstances of the case, there shall be no order as to costs. As the Petitioner and his Advocate is not present, Office shall serve copy of this order on the Petitioner and his Advocate. Order accordingly.

[R.G. KETKAR, J.]