

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 4852 OF 2017

(Shri Subhash S/o Kaniram Rathod...VS...State of Maharashtra, Thr. Its Secretary and Another)

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri A. M. Ghare, Advocate for Petitioner.

Mrs. M. A. Barabde , A.G.P. for Respondent Nos.1 and 2.

CORAM : S.C.GUPTA, J.

DATED : 8th SEPTEMBER, 2017.

The petition challenges a direction issued by the Collector of Washim (State Excise Department) on 12th July, 2017 ordering closure of the country liquor shop of the petitioners on the basis of the order passed by the Hon'ble Supreme Court on 15th December, 2016 in the case of **State of Tamil Nadu..vs..K.Balu** prohibiting vending of liquor within a distance of 500 meters of the outer edge of National or State Highways. The Hon'ble Supreme Court has since clarified by its order dated 11th July, 2017 passed in **Arrive Safe Society of Chandigarh..vs..The Union Territory of Chandigarh and Anr.** that original directions contained in the order dated 15th December, 2016 does not prohibit licensed establishments within municipal areas. On the last occasion, this Court adjourned the matter to enable the learned A. G. P. to take instructions as to whether or not the petitioner's establishment was within the municipal limits. It is confirmed by learned A. G. P. that the country liquor bar run by the petitioner is within the municipal limits. The bar, in that case, does not come within the prohibition ordered by the Hon'ble Supreme Court in the case of **State of Tamil Nadu ..vs.. K. Balu**, as explained in the case of **Arrive Safe Society of Chandigarh ..vs..The Union Territory of**

Chandigarh and Anr. The impugned order of the Collector will have to be, accordingly, quashed and set aside.

Learned A. G. P. submits that the State has now come forward with new directions as of 1st September, 2017, vide notification No. CLR-717/C.R.213/EXC-3, in respect of country liquor shops and bars within the State. Learned A. G. P. submits that Maharashtra Country Liquor Rules, 1973, have been amended by this notification and various requirements are either substituted or altered by such amendment.

Considering the fact that the original order of the Collector, impugned in the present petition, is not based on the amendments produced before the Court, consideration of these amendments does not form part of the subject matter of the present petition. The impugned order of the Collector passed on 12th July, 2017 is, accordingly, quashed and set aside and the respondents are directed to forthwith open the seal put by them on the petitioners' shop.

If it is the case of the State Government that there is any non-compliance on the part of the petitioners of any provision of law otherwise than by reason of the prohibition contained in the Hon'ble Supreme Court's direction in the case of **K. Balu**, the State Government is free to take such steps as may be permissible to it in law.

All concerned to act on a copy of this order duly authenticated by the Sheristadar of this Court.

JUDGE