

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

PUBLIC INTEREST LITIGATION NO.41 OF 2018

Abdul Sattar Raheman Kureshi,
Age-36 years, Occu:Business
& Social Worker,
R/o-Zari, Tq. & Dist-Parbhani.

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through the Secretary,
State Excise Department,
Mantralaya, Mumbai,
- 2) District Collector,
Collector Office, Parbhani,
- 3) Superintendent of State Excise
Parbhani, Dist-Parbhani,
- 4) Hotel Raj Beer Bar
and Permit Room,
Zari, Tq. & Dist-Parbhani,
Through its Owner
Mr. Suryakantrao Manikrao Deshmukh,
Age-55 years, Occu:Business,
R/o-Zari, Tq. & Dist-Parbhani.

...RESPONDENTS

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Mr.Subhash V. Mundhe Advocate for Petitioner.
Mr.S.B. Yawalkar, Additional Government
Pleader for Respondent Nos.1 to 3.

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**CORAM: S.S. SHINDE AND
S.M. GAVHANE, JJ.**

DATE : 27TH MARCH, 2018

ORDER :

1. This Public Interest Litigation is filed with following substantive prayer:

"B) By issuing appropriate writ of mandamus or any other appropriate writ, to direct the respondent no.2 and 3 to issue the order to restraining the respondent no.4 to run the permit room on the State Highway i.e. Jintoor-Parbhani State Highway as per the law laid down by the Hon'ble Apex Court (EXH."A")".

2. Learned counsel appearing for the Petitioner invites our attention to the pleadings in the Petition, grounds taken therein and submits that the relief may be granted in terms of prayer clause "B)".

3. On the other hand, learned Additional

Government Pleader appearing the Respondent State submits that this Petition is filed by the Petitioner alleging that the permit room run by Respondent No.4 is on the State Highway i.e. Jintoor-Parbhani Highway, which is at village Zari. Learned Additional Government Pleader invites our attention to the fact that the Petitioner is doing the business and he is also having one old permit room at village Zari and therefore this Public Interest Litigation is not filed with bona fide intention.

4. We have carefully perused the pleadings in the Public Interest Litigation and in particular contents under the heading "Declaration and undertaking of the petitioner:-". Under the said heading, the Petitioner himself has stated that, the Petitioner is doing the business and he is also having one old permit room at village Zari. In that view of the matter, we are not inclined to entertain this Public Interest Litigation at the behest of the Petitioner.

5. However, we cannot brush aside the issue raised in this Public Interest Litigation that the permission to run the permit room granted in favour of Respondent No.4 at Zari is after the pronouncement of the Judgment by the Supreme Court in the case of the State of Tamilnadu, Represented by its Secretary Home, Prohibition & Excise Department and others. vs. K. Balu and another in Civil Appeal Nos.12164-12166 of 2016 [Arising out of SLP (C) Nos.14911-14913 of 2013], dated 15th December, 2016. It is stated in the Public Interest Litigation that Respondent No.4 has started the business i.e. permit room, within the radius of 500 meters from the State Highway i.e. Jintoor-Parbhnai and therefore the Petitioner has made representations to the authorities for recalling the permission given in favour of Respondent No.4. Be that as it may, we direct Respondent Nos.1 to 3 to make an inquiry, whether the permission given in favour of Respondent No.4 is keeping in view / in accordance with the

directions issued by the Supreme Court in the
aforementioned Judgment and also whether same is
within the radius of 500 meters from Jintoor-
Parbhnai State Highway. Respondent Nos.1 to 3
shall make detail inquiry, however, after giving
notice to Respondent No.4 and adhering to the
principles of natural justice and prepare the
report and submit it to this Court within THREE
MONTHS from today.

6. With the above observations and
directions, the Public Interest Litigation stands
disposed of.

7. List for compliance of this order, on
28th June, 2018 under the caption "For
compliance".

[S.M. GAVHANE, J.]

asb/MAR18

[S.S. SHINDE, J.]