

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2102 OF 1998

Laxman s/o Chandrayya Bodge,
Age-40 years, Occu-Business,
R/o Lohara, Tq. Umarga,
Dist.Osmanabad

– PETITIONER

VERSUS

1. The Collector,
State Excise, Osmanabad,

2. The State of Maharashtra

– RESPONDENT

Mr.P.P.Mandlik, Advocate for the petitioner.
Mr.S.K.Tambe, AGP for respondent Nos. 1 and 2.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 09/02/2018

ORAL JUDGMENT :

1. The petitioner CL-III licence holder, who operates a liquor vending shop in Lohara, Tal.Omerga, Dist.Osmanabad, is aggrieved by the order dated 30/04/1998 passed by respondent No.1 / Authority thereby cancelling the licence for operating the liquor vending shop.

2. After filing of this petition, this Court had granted ad-interim relief on 26/05/1998 in terms of prayer clause "C" and had stayed

the effect of the impugned order. This petition was subsequently admitted on 26/02/2001 and the interim relief was continued after hearing the sides.

3. By virtue of the above, the petitioner has been operating the liquor vending shop and claims to have got his CL-III licence renewed from time to time as per the rules applicable.

4. Contention of the petitioner is that in the said Village Lohara, the electoral / voters' list indicates a population of 3879 out of which 2023 are males and 1776 are females. The circular dated 29/12/1993 and the letter dated 30/07/1994 issued by the Deputy Secretary, Home Department, State of Maharashtra addressed to the Commissioner of the State Excise Department, indicates that 50% of the female voters should pass a resolution for cancellation of the CL-III licence. The Gram Sabha convened for the said purpose must have a quorum of at least 50% of the voters for passing such a resolution.

5. Contention is that there were 4 women groups by the names Aadarsha Mahila Mandal, Ushakkal Mahila Mandal, Sphurti Mahila Mandal and Pragati Mahila Mandal passed a resolution on the dates mentioned in the impugned order seeking cancellation of the CL-III

licence. It is, therefore, contended that the proceeding book of the Gram Sabha dated 04/01/1998 indicates that a total number of 256 voters attended the meeting out of which 161 voters were females and 95 voters were males. It is, therefore, canvassed that the impugned order runs counter to the circulars made applicable.

6. The learned AGP appearing on behalf of the respondents has strenuously defended the impugned order. He, however, concedes that the interim relief was confirmed by this Court after hearing the learned Advocates on 26/02/2001. He further contends that pursuant to the interim orders of this Court, the District Collector, Osmanabad has issued an order dated 28/05/1998 thereby restoring the licence of the petitioner.

7. Learned AGP then submits that the policies of the State Government in relation to the cancellation of CL-III licence on the basis of a demand from the villagers, has now changed. So also the Hon'ble Apex Court has recently delivered a judgment with regard to such shop owners vending liquor.

8. I am, therefore, of the view that rather than going into the details about the resolutions passed in 1997 and 1998 by the

villagers, keeping in view the interim order of this Court passed almost 20 years ago, it would be appropriate to allow the said villagers to take a fresh call in accordance with the present policies / rules / circulars made applicable by the State Government with regard to cancellation of CL-III licence on public demand. So also, the respondents / authorities can consider the effect of the recent judicial pronouncement of the Hon'ble Apex Court with regard to permitting such CL-III licence holders to vend liquor.

9. Keeping the above in view, this petition is allowed in terms of the interim relief granted on 26/05/1998 by keeping the liberty open as observed in the foregoing paragraph no.8. Rule is made absolute in these terms.

(RAVINDRA V. GHUGE, J.)