

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 9144 OF 2017
IN
WRIT PETITION NO. 2244 OF 1998

MOTIBAI R GAUR
VERSUS
STATE OF MAHARASHTRA AND ORS

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Advocate for Applicants : Shri A.G.Godhamgaonkar
AGP for Respondents 1 to 4 : Shri S.K.Tambe

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CORAM : RAVINDRA V. GHUGE, J.
Dated: February 02, 2018

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PER COURT :-

1. The petitioner has passed away. Applicants claim to be her legal heirs. Delay is of 4664 days.

2. In order to assess, as to whether any purpose would be served by condoning the delay of about 12 years and 2 months, I heard the learned Advocate on the grounds set out in the petition. The order dated 22.5.1998 was challenged on 5.6.1998 and the said order of suspending the Cl-III license of the deceased / appellant for 40 days, was stayed on 5.6.1998.

3. I have considered the impugned order. Since the statutory authorities had passed a punitive order against the deceased license

holder, the Civil Application is allowed. Delay of 12 years and 2 months (4664 days) is condoned on the condition that the applicants shall deposit costs of Rs.12,000/- with respondent No.4 / Superintendent of State Excise, Nanded on/or before 26.2.2018, failing which this order shall stand recalled and the petition shall stand abated.

4. I have heard the strenuous submissions of the learned counsel for the petitioner and the learned AGP, who prays that this petition be dismissed by imposing heavy costs.

5. This Court had heard the learned Advocate for the petitioner on 5.6.1998 and after considering the grounds formulated in the petition the impugned order dated 22.5.1998 was stayed. I find that, by the order of the District Collector, dated 12.1.1998, the Cl-III vending shop of the petitioner was closed from 12.1.1998 till 29.1.1998, which is the period of about 18 days.

6. Thereafter, the appellate authority had stayed the order of the District Collector during the pendency of the appeal on 29.1.1998. After the impugned order was delivered on 22.5.1998, the shop was, therefore, closed and the order of punishment was restored and the said closure continued till 5.6.1998, when this

Court stayed the impugned order. This period is of about 15 days. As such, the petitioner's shop was effectively closed for 33 days out of the 40 days punishment of suspension of license.

7. Considering the above, I find that this petition is rendered of an academic interest since the petitioner has already suffered the punishment of suspension of license for 33 days.

8. In the light of the above, this petition is partly allowed in terms of the interim relief granted on 5.6.1998. The impugned order would lose its efficacy and the period of suspension of license for 33 days shall be deemed to be a punishment undergone by the deceased petitioner whose legal heirs are on record. Rule is made partly absolute in these terms.

(RAVINDRA V. GHUGE, J.)

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