

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 2762 OF 1994

Motilal Santumal Bajaj,
Age : 62 years, Occupation : Business,
R/o Municipal House No.7391,
Vasant Talkies Road, Maliwada,
Ahmednagar.

...PETITIONER

-VERSUS-

- 1 The State of Maharashtra.
(Secretary, Home Department
Prohibition). Through Government
Pleader, High Court Building,
Aurangabad.
- 2 The Collector,
Collectorate, Ahmednagar.
- 3 The Commissioner,
State Excise, Maharashtra State,
Old Customs House,
Ballard Estate, Mumbai.
- 4 Superintendent of Prohibition and
State Excise, Ahmednagar District,
Station Road, Ahmednagar.

...RESPONDENTS

...
Advocate for the Petitioner : Shri Deepak B. Chavan a/w Shri
M.D.Narwadkar h/f Shri Deshpande Murar V..

AGP for the Respondents/ State : Shri B.A.Shinde.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 30th August, 2018

Oral Judgment :

1 On 23.08.2018, the following order was passed by this Court :-

- “1. *The Petitioner relies upon the judgment of the learned Division Bench of this Court dated 13.12.2017 in Writ Petition No.8548/2004 in the matter of M/s Arss Biofuel Private Limited vs. State of Maharashtra and others and group of petitions, delivered at the Principal Seat. He, therefore, submits that the Bombay Denatured Spirit Rules, 1959 were considered and Rules 23 to 62 were declared ultra vires, unconstitutional and have been struck down. As such, the State has come out with some circular on the basis of which this petition can be allowed.*
2. *The learned AGP submits that he would produce the said circular on the next date.*
3. *Stand over to 30.08.2018 for “passing orders”.*

2 The learned AGP tenders a copy of the judgment of this Court in ***M/s Arss Biofuel Pvt. Ltd. vs. State of Maharashtra and others, Writ Petition No.8548/2004 (Mumbai)*** with other identical petitions decided vide judgment dated 13.12.2017, by which, he admits that Rules 23 to 62 of the Bombay Denatured Spirit Rules, 1959 have been declared *ultra vires* and unconstitutional and have been struck down.

3 The learned AGP, therefore, places on record a copy of the communication dated 24.08.2018 issued by the Superintendent of State

Excise, Ahmednagar addressed to the learned AGP wherein, it is stated that though the judgment of this Court in *M/s Arss Biofuel Pvt. Ltd. (supra)* is challenged in the Honourable Supreme Court, the directions of this Court in the said judgment have to be complied with.

4 The learned AGP also places on record a copy of an earlier communication dated 19.03.2018 by the Commissioner of State Excise, Maharashtra State, addressed to all the Divisional Deputy Commissioners/ Superintendents of State Excise by which, it was advised to implement the directions of this Court in *M/s Arss Biofuel Pvt. Ltd. (supra)*.

5 Both these communications dated 24.08.2018 and 19.03.2018 are taken on record and marked as “X” and “Y”, respectively, for identification.

6 The learned AGP, therefore, submits that this petition can be disposed of by observing that the Petitioner is not required to seek a licence.

7 Considering the above, this Writ Petition is partly allowed by quashing the impugned notice dated 10.01.1991 coupled with the order of cancellation of licence dated 19.04.1991, the order of Respondent No.3 dated 03.08.1992 and the order of the Secretary of Home Department dated 18.04.1994.

8 Pursuant to the above, the godowns of the Petitioner, which were sealed on 15.01.1986 and 11.11.1986, be de-sealed.

9 Rule is made partly absolute in the above terms.

10 The pending Civil Application, if any, does not survive and stands disposed of.

kps

(RAVINDRA V. GHUGE, J.)

Kalyan
Prakash
Sangvikar

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