

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CAW NO. 1036/2018 IN WRIT PETITION NO. 5256 OF 2016

(M/s. Jawahar Wines thr. Its Partner Smt. Nirmaladevi w/o Devilal Jaiswal & Ors. vs. The State of Maharashtra thr. Secretary, State Excise & Ors.)

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

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
ARUN D. UPADHYE, JJ.
OCTOBER 12, 2018.**

Heard Shri A.S. Jaiswal, Senior Advocate with Shri N.A. Padhye, learned counsel for the applicants/petitioners and Shri P.S. Tembhare, learned AGP for the respondents.

2. The learned Senior Advocate submits that because of erroneous demand of occupancy certificate, business could not be done and even today the applicants/petitioners are out of business.

3. The license was directed to be renewed by this Court vide its order dated 13.03.2018 initially up to 31.03.2016 and thereafter till the date of passing orders i.e. 2017-18.

4. The applicants/petitioners wanted to shift the location of shop in the year 2015-16 and therefore, while depositing fee for that year, necessary charges for consideration/ processing of such transfer request are also

deposited. The contention is, as the applicants are still out of business, renewal of license has to be only for the purposes of continuity and it does not result in any financial benefit to the applicants/ petitioners.

5. The learned AGP points out that the prayer is not for review but for clarification. According to him, as there is a direction to renew the license till 31.03.2018 as per law, the license fee is integral part of that process and hence it has been demanded.

6. In this situation, the question is, whether for the period for which the applicants/ petitioners could not do their business, the license fee could have been demanded ? If the request for transfer, moved by the petitioners remains pending for few years, whether during such period also such license fee must be paid ?

7. The admitted facts before us are, the petitioners/ applicants were not at fault. Had their request been considered and occupancy certificate would not have been demanded, the petitioners could have continued in business and also paid necessary license fee.

8. After hearing the learned counsel, we found that the annual license fee is roughly Rs. Three lakh.

9. This Court has while deciding Writ Petition No. 5256 of 2016 on 13.03.2018 directed renewal from the year

2015-16 onwards only to maintain continuity of license. The license fee is payable when government parts with privilege in its favour. Here, it cannot be said that for the period for which the petitioners could not do business, there was such parting.

10. In this view of the matter, we direct the applicants/ petitioners to pay the sum of Rs.10,000/- per year for the period from 2016-17 onwards till the request for transfer is considered and the applicants/ petitioners are permitted to restart their business.

11. Civil Application is accordingly partly allowed and disposed of. However, there shall be no order as to costs.

JUDGE

JUDGE

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