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

PUBLIC INTEREST LITIGATION NO.125 OF 2019

Smt. Kanta w/o Navnath Lanke,
Age:37 years, Occu: Agriculturist
and Household, R/o: At post Nighoj,
Tal. Parner, Dist. Ahmednagar

..PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Principal Secretary,
Home and Excise Department,
Mantralaya, Mumbai
2. The Commissioner,
Commissionerate, State Excise (M.S.),
2nd Floor, Old Custom House,
Shahid Bhagatsingh Marg,
Mumbai
3. The District Superintendent of Excise,
State Excise Department,
Tal. & Dist. Ahmednagar
4. The Collector,
Collector Office,
Tal. & Dist. Ahmednagar
5. The Group Grampanchayat, Nighoj,
Through its Gramsevak,
At Post : Nighoj, Tal. Parner,
Dist. Ahmendagar

..RESPONDENTS

Mr Ajinkya Kale, Advocate holding for Mr S. B. Talekar, Advocate for
petitioner;
Mrs M. A. Deshpande, A.G.P. for respondent Nos.1 to 4

**CORAM : PRASANNA B. VARALE
AND
ANIL S. KILOR, JJ.**

DATE : 21st November, 2019

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ORAL ORDER:

Heard learned Counsel appearing on behalf of the petitioner.

2. It is the submission of learned Counsel for the petitioner that in village Nighoj, Tq. Parner, Dist. Ahmednagar, an attempt was made to open a country liquor shop. In a serious opposition, the Grampanchayat, by 2/3rd majority, opposed the opening of liquor shop and resultantly, the shop could not be opened in the village. It is the allegation of the petitioner that in connivance with certain members of the Grampanchayat, the shop owner prompted the Grampanchayat to pass a subsequent resolution, thereby a decision was taken to allow the shop owner to run a country liquor shop in the said village. The further submission of learned Counsel for the petitioner is, there is no such provision of second resolution and inspite of this, the resolution was passed.

3. On perusal of the material placed on record, it reveals that the matter was submitted to the Collector, Ahmednagar with necessary opinions/reports of the Excise authorities. The Collector, Ahmendagar was also apprised about certain Government Resolutions, whereby the Grampanchayat is permitted to consider the issue of permission to open a country liquor shop in the village by taking up appropriate resolution. The report was also submitted through the Superintendent

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of Police, Ahmednagar and a communication was forwarded through the Chief Executive Officer, Zilla Parishad, Ahmednagar. The Collector, on submission of the proposal through the Superintendent, State Excise Department, Ahmednagar, passed the order, thereby recording his no objection to start the country liquor shop under the requisite licence. Considering these facts, as they are on record, it can safely be stated that the order passed by the Collector is an appellable order and any person, being aggrieved by such order can avail the remedy of filing appeal challenging the order passed by the Collector.

4. At this stage, learned Counsel for the petitioner submitted that as per his instructions, the representation is already made before the appellate authority, but the same is pending without there being any progress in the matter. If that is so, we see no reason to entertain the present public interest litigation, when already an alternate and efficacious remedy is availed.

5. Considering the aforesaid facts, we are not inclined to entertain the present public interest litigation. We further state that the interest of justice can be served by issuing a direction to the concerned authority to decide the representation within a stipulated period, in view of the statement made by learned Counsel for the petitioner that the representation is already made before the appellate authority.

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6. Accordingly, the Commissioner may consider the representation as an appeal. In case, the Commissioner is of an opinion that certain more documents are necessary for deciding the appeal, he may call upon the representationist to provide the necessary documents and decide the appeal as per law as early as possible and not later than sixteen weeks from the date, on which the representationist approaches the authority, apprising the order of this Court.

With the aforesaid directions, the public interest litigation is disposed of.

(ANIL S. KILOR, J.)

(PRASANNA B. VARALE, J.)

sjk