

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

1 WRIT PETITION NO.12760 OF 2019

ASHOK VITTHAL SABLE
VERSUS
COMMISSIONER FOR PROHIBITION AND EXCISE AND
ANOTHER

...
Advocate for Petitioner : Mr. A. M. Gholap
AGP for Respondents-State : Mr. S. K. Tambe
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CORAM : RAVINDRA V. GHUGE, J.

DATED : 14th OCTOBER, 2019.

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PER COURT :

1. This matter was not on board. An extreme urgency was expressed and hence taken on the production board.

2. The petitioner CL-III license holder is aggrieved by the order of the District Collector, Jalna dated 04.10.2019 by which the license of the petitioner has been suspended for 30 days. An inspection was conducted by the Sub-Inspector, State Excise, Ambad and the Superintendent, State Excise, Jalna on 12.10.2018. On 16.11.2018 a show cause notice was issued to the petitioner. A hearing took place on

04.09.2019 before the District Collector, Jalna, who is the Superintendent of State Excise and the impugned order was passed on 04.10.2019.

3. I have perused the ten deficiencies / irregularities quoted by the District Collector in the impugned order.

4. The learned advocate for the petitioner submits on instructions that the petitioner is willing to deposit Rs.1,00,000/- (Rs. One lakh) with the District Collector, Jalna. The learned AGP strenuously submits that if the petitioner is to be granted the liberty to reopen his shop notwithstanding the impugned order, he should not be permitted to do so before 25.10.2019 and the concerned department be given the opportunity to carry out a surprise check on the shop to find out whether it is being conducted as per the rules.

5. I find that the deposit of Rs.1,00,000/- (Rs. One lakh) by the petitioner and the shop to be kept closed till 24.10.2019, for the present, would be an appropriate order and liberty can be granted to the State Excise Department to carry out a surprise check.

If further irregularities are found, the District Collector would be at liberty to pass an appropriate order.

6. In view of the above, this petition is disposed of by directing the petitioner to deposit Rs.1,00,000/- (Rs. One lakh) before the District Collector, Jalna on or before 22.10.2019. The petitioner would be at liberty to commence his business from 25.10.2019. Further hearing in the pending proceedings before respondent No.1 at Mumbai shall be conducted as per the dates on which the proceedings are posted by the said authorities. All contentions of the parties are kept open.

7. In the event, there is any surprise check caused with reference to the shop operated by the petitioner, the said material can be placed before respondent No.1. Respondent No.1-Commissioner shall decide the matter on its own merits and also decide the apportionment of the amount of Rs.1,00,000/- deposited by the petitioner before respondent No.2.

(RAVINDRA V. GHUGE, J.)

vsm/-