

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.3150 OF 2019

Snehalata Baliram Thakre]
of Nasik, aged 54r years, Indian]
inhabitant, occupation Business,]
carrying on business of retail sale of]
country liquor at Mahakali Chowk,]
CIDCO, District Nasik on the strength]
of CL III Licence No.75]..... Petitioner.

Versus

1] **The Collector of Nasik,**]
State Excise Department,]
District Nasik]
]]
2] **The Commissioner State Excise,**]
2nd floor, Old Customs House, Fort,]
Mumbai.]
]]
3] **The State of Maharashtra**]
Mantralaya, Mumbai (Maharashtra State)]..... Respondents.

Mrs. Veena Thadhani for the Petitioner.
Mrs. P J Gavhane for the Respondent Nos.1 to 3.

CORAM : S. S. SHINDE, J
DATE : 22nd March 2019

ORAL JUDGMENT :

1 Rule, returnable forthwith. Mrs. P J Gavhane, the learned AGP appearing for the Respondent Nos.1 to 3 waives service for the said Respondents. By consent, taken up for final hearing and heard.

2 In my view, this Writ Petition can be disposed of at this stage itself.

3 The Petitioner carries on the business of retail sale of country liquor at the addressed mentioned in the cause title above. The Petitioner has been granted a CL II license. On 04/09/2018 the Sub Inspector, State Excise, B-1 Division, District Nashik, visited the licensed premises of the Petitioner and found that a sealed bottle of Deshi Daru having MRP of Rs.52 was sold for Rs.65 without demanding liquor permit from the customer. During the said visit, the Sub Inspector found that the bar was not clean and board was not fixed at the entrance of the shop of the Petitioner. Thereafter a show cause notice was issued to the Petitioner on 15/09/2018 to which the Petitioner replied on 19/10/2018 requesting therein to compound the act/offence of the Petitioner.

4 The learned counsel appearing for the Petitioner Mrs. Veena Thadhani invited attention of this Court to the pleadings and the grounds taken in the Petition. It is the contention of the learned counsel for the Petitioner that the alleged act/offence of the Petitioner is compoundable, however, the authorities below have not considered the circular dated 27/07/2001 and refused to compound the act/offence of the Petitioner and thereby imposed a harsh punishment by passing the orders of suspending the

license of the Petitioner for a period of three months, which is caused great hardship to the Petitioner. She further contended that the impugned orders have been passed without application of mind and require to be quashed and set aside.

5 The learned counsel for the Petitioner brought to my notice a number of orders passed under the similar circumstances where the authorities and in some of the cases this Court have taken the view that imposition of a composition fee was adequate punishment.

6 After having perused the material on record and having heard the learned counsel for the parties, I am of the view that the punishment awarded to the Petitioner is harsh and requires modification. In the result, the impugned orders stand modified and the three months period of suspension of the license of the Petitioner is reduced to the period from 14/01/2019 till date i.e. 22/03/2019. In addition to the suspension of the license of the Petitioner from 14/01/2019 till 22/03/2019 the Petitioner shall pay an amount of Rs.51,000/- (Rupees Fifty One Thousand only) as composition fee within one week from today. The Petitioner's license shall be deemed to have been suspended between 14/01/2019 till 22/03/2019.

7 Rule is accordingly made absolute to the aforesaid extent. The

above Writ Petition is accordingly allowed. No order as to costs.

8 The learned AGP to communicate this order to the concerned officer through the office of the Government Pleader by fastest mode of communication.

[S. S. SHINDE , J]