

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

WRIT PETITION NO. 13033 OF 2019

Krishnakant Kantilal Kayasth

... Petitioner.

V/s.

The State of Maharashtra & Ors.

...Respondents.

Mr. Santosh L. Patil, Advocate for the Petitioner.

Mr. S. L. Babar, AGP for the Respondent Nos. 1 to 3.

CORAM : UJJAL BHUYAN, J.

DATE : DECEMBER 19, 2019.

PC :

1 Heard Mr. S. L. Patil, learned counsel for the Petitioner and Mr. S. L. Babar, learned AGP for Respondent Nos. 1 to 3.

2 Petitioner was a licence holder of a Foreign Liquor Shop, which he operated in Hotel Shree Durga, situated at Survey No. 829, House No. 1527, Lasalgaon Nasik Highway, Niphad, District -Nasik. This licence was issued to the Petitioner on 24.10.1997; whereafter he was continuing his liquor shop for all these years on the strength of said licence.

3 It appears that Respondent No.4 lodged a complaint before the District Collector i.e. Respondent No.3, alleging that Petitioner had obtained the licence by showing a different plot of land. The objection of Respondent No. 4 was accepted by Respondent No.3 and by order dated 11.11.2019, licence of the Petitioner was cancelled.

4 Learned counsel for the Petitioner submits that Petitioner neither made any wrong statement nor suppressed any material fact at the time of applying for the said licence and that the licence was granted to him with reference to the said plot of land only. Subsequently, the said land was partitioned amongst different members of the family. After partition of the land, the land particulars have been changed but the particulars related to the same plot of land. This could have been easily verified by Respondent No.3.

5 On the other hand, Mr. S. L. Babar, learned AGP submitted that against the impugned order, Petitioner had preferred appeal under section 137 of the Maharashtra Prohibition Act, 1949 before the Respondent No. 2, which is pending. Therefore, when the Petitioner has availed the said statutory remedy, invoking writ jurisdiction is not justified.

6 Submissions advanced by learned counsel for the parties have been considered.

7 Cancellation of licence of an ongoing concern is a drastic measure.

8 In the instant case, licence was granted to the Petitioner way back on 24.10.1997. For about 22 years, Petitioner carried on his business on the strength of the said licence. It is seen that objections were raised by Respondent No. 4 only towards the fag end of the year 2018 i.e. after almost 19 years of grant of licence. Petitioner had a valid licence and if contention of the Petitioner is correct, then cancellation of the same would be wholly unjustified.

9 However, since Petitioner has preferred appeal, let the Appellate Authority i.e. Respondent No.2 decide the same in accordance with the law within a period of three months from today. During this period, the cancellation order dated 11.11.2019 shall be kept in abeyance.

10 Writ Petition is disposed of.

(UJJAL BHUYAN, J.)

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