

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

WRIT PETITION NO.2089 OF 2019

M/s R. Y. Padole, a Partnership Firm, Keroda, Tah. Saoli, Dist. Chandrapur

-vs-

The State of Maharashtra, State Excise, Thr. Its Secretary and ors.

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

Court's or Judge's Orders.

Shri S. G. Jagtap, Advocate for petitioner.

Shri S. M. Ghodeswar, Addl. Govt. Pleader for respondents.

CORAM : A.S.CHANDURKAR, J.

DATE : March 20, 2019

Heard finally in view of notice issued earlier.

The petitioner is aggrieved by the order dated 02/03/2019 suspending CL-III license issued to him for a period of thirty days. According to the petitioner in the year 1990-91 it has been issued CL-III license under Rule 24 of the Maharashtra Country Liquor Rules, 1973 (for short, the said Rules). This license was renewed from time to time and pursuant to an order dated 21/05/2012 there was an endorsement made by the Collector permitting sale of Beer under that license subject to recovery of 25% of the fees payable for renewal of the license. On 21/12/2018 a show cause notice was issued to the petitioner as it was noticed that there were certain breaches committed while operating the said CL-III license. After hearing the petitioner the impugned order suspending the CL-III license came to be passed.

2. Shri S. G. Jagtap, learned counsel for the petitioner submitted that initially the petitioner was granted CL-III license under Rule 24 of the said Rules. By a subsequent order, permission was granted to sell Beer by making an endorsement on the CL-III license. The permission to sell Beer which was foreign liquor was therefore covered by the Maharashtra Foreign Liquor Rules, 1959. In the show cause notice issued, the breach referred to was in the matter of sale of Beer and therefore license with regard to CL-III sale could not have been suspended. According to him at the most the license to sell foreign liquor could have been so suspended. Hence the impugned order being excessive was liable to be set aside.

2. On the other hand Shri S. M. Ghodeswar, learned Additional Government Pleader for the respondent supported the impugned order. He referred to the provisions of Rule 30 of the said Rules and especially Clauses-6 and 7 thereof. According to him, a holder of CL-III license would be permitted to sell Beer for “ off consumption” subject to making an endorsement in that regard on the license. Such endorsement was made on CL-III license issued to the petitioner. Since there was no separate license issued to the petitioner for sale of foreign liquor, the submission made on behalf of the petitioner was not liable to be accepted. Moreover, the alleged breach of conditions was admitted by the petitioner.

3. Heard the learned counsel for the parties and perused the relevant provisions. The license issued to the petitioner is under Rule 24 of the said Rules. The same bears an endorsement permitting him to sell Beer for “off consumption”. Such endorsement can be made only under Rule 30(6) of the said Rules. There is no such provision

in Rule 24 to make an endorsement in the CL-III license permitting sale of foreign liquor. The endorsement as made also indicates recovery of 25% fee payable for grant of or renewal of the license. Hence there is no separate foreign liquor license issued to the petitioner. The endorsement as made on the CL-III license therefore is relatable only to Rule 30(6) of the said Rules. As it has been found that there was some breaches committed by the petitioner in the manner of operating the said license, especially while selling foreign liquor, the impugned order has been passed. In the reply dated 24/01/2019 submitted by the petitioner there are admissions of certain acts being done by the servant engaged by the petitioner resulting in the breaches and that he had been removed from service. The fact remains that such discrepancies were committed while operating the license. In that view of the matter it cannot be said that the impugned order has been passed in excess of jurisdiction. The impugned action is found to be in accordance with the relevant Rules. Hence there is no reason to interfere in writ jurisdiction. The writ petition is dismissed with no order as to costs.

JUDGE