

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

Writ Petition No.3577 of 2018
(Suresh Hrishchandra Bhandarkar .vs. The State of Maharashtra and others.)

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

Mr. S.G. Jagtap, Advocate for Petitioner.
Mrs. Swati Kolhe, AGP for Respondent Nos. 1 to 3.
Mr. A.A. Mardikar, Advocate for Respondent Nos. 4 to 7.
Mr. R.R. Vyas, Advocate for Respondent No.9.

CORAM : Manish Pitale, J.
DATED : April 23, 2019.

By this writ petition, the petitioner has challenged an order/direction issued by the respondent no.2- Collector, State Excise, Nagpur, directing the petitioner to produce within a period of 15 days a consent letter/certificate from respondent no.9 who is the purchaser of the property/shop wherein the petitioner is running his licensed country liquor outlet. While issuing notice, this Court granted extension of time for producing the consent letter/certificate and thereafter such extension was continued till the disposal of the present writ petition. On this basis, the CL-III licence of the petitioner stood renewed in the years 2018-2019.

2. Although various contentions on merits have been raised on behalf of the petitioner, the learned counsel for the respondent no.9 has pointed out before this Court that an alternative efficacious remedy is

available to the petitioner in the form of appeal under Section 137 of the Maharashtra Prohibition Act, 1949, before the Commissioner. A perusal of the said provision i.e. Section 137 of the aforesaid Act shows that all orders passed by a Collector are appealable before the Commissioner under sub-section (2) of the aforesaid provision. The order/direction at Annexure P-1 is clearly one such order passed by the respondent no.2 Collector. Hence there is force in the submission made on behalf of respondent no.9 that the petitioner ought to have availed of the said alternative remedy available to challenge the order impugned in the present writ petition.

3. In view of the above, the present writ petition is disposed of with liberty to the petitioner to challenge the impugned order by way of appeal under Section 137 of the aforesaid Act before the Commissioner. The petitioner shall avail of the said remedy within a period of three weeks from today. The interim order granted by this Court shall continue to operate for a period of three weeks from today, subject to further orders that may be passed by the Commissioner in the proposed appeal.

JUDGE