

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

WRIT PETITION NO.4386 OF 2018

Renu w/o Atul Ingle and anr.

-vs-

Sanjay s/o Vasant Rao Dhande 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 P. V. Vaidya, Advocate for petitioners.

Shri R. Shrivastava, Advocate for respondent No.1.

Shri A. V. Palshikar, Assistant Government Pleader for
respondent Nos.2 and 3.

CORAM : A.S.CHANDURKAR, J.

DATE : September 03, 2019

The challenge raised in the present writ petition is to the order dated 28/03/2018 whereby the revision application preferred by the respondent No.1 herein challenging the rejection of permission granted to operate the FL-III licence has been set aside and the respondent No.1 has been permitted to operate the same in accordance with law.

It is the grievance of the petitioners that in view of the fact that there is a registered deed of declaration relating to the building in which the said FL-III licence is to be operated which prohibits the use of the premises for running a beer bar and liquor shop, such permission could not have been granted to the respondent No.1. In any event it is submitted that the petitioners were not heard when the impugned order came to be passed. In

the writ petition there is also a reference to a civil suit for specific performance that has been filed on behalf of the petitioners which is stated to be pending. On behalf of the respondent No.1 reference is made to provisions of Section 27 of the Contract Act, 1876 and it is submitted that the impugned order does not warrant interference.

2. On hearing the learned counsel for the parties it is seen that on 22/09/2016 the Deputy Commissioner of Police had submitted a report to the Superintendent, State Excise stating therein that in view of presence of girls' hostels within 100 meters of the premises where the FL-III license was proposed to be operated, it would not be feasible to recommend the same. It is on that basis that initially such permission was not granted to the respondent No.1. However the Honourable Minister on receiving a subsequent report indicating that no recognised educational institution was being run within 100 meters of the proposed premises allowed the revision application.

3. The grounds now sought to be urged by the petitioners for challenging that order had not been the subject matter of consideration by the Authorities. If at all the petitioners are

aggrieved by running of the said FL-III license in the premises in question by relying upon the deed of declaration with regard to the said building or the fact that some civil proceedings are pending, the petitioners are free to move such application before the Competent Authority with a request to revoke such permission. Needless to state that if such grievance is raised before the Competent Authority, the Competent Authority shall consider the same in accordance with law and adjudicate the same expeditiously. The writ petition is disposed of accordingly.

JUDGE