

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

WRIT PETITION NO.755/2017

Smt. Indubai Shankar Mawle

..Vs..

The Commissioner of State Excise, Mumbai and others

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

Court's or Judge's orders

Shri R.S. Kurekar, Advocate for the petitioner.
Shri V.P. Maldhure, A.G.P. for respondent Nos.1 and 2.
Shri N.R. Saboo, Advocate for respondent Nos.3 and 4.

CORAM : Z.A. HAQ, J.

DATE : 28.2.2019.

Heard.

According to the petitioner, CL-III licence in question was in the name of her husband Shankar S/o Laxman Mawle and, after death of Shankar, as per the Rules, the Authorities are bound to transfer the CL-III licence in the name of petitioner, however, it is transferred in the name of Yogesh Mawle.

While deciding the claim of the petitioner, learned Collector has recorded that CL-III licence was issued in the name of Shri Shaligram Laxman Mawle and after his death it was transferred in the name of his widow Kokilabai and then name of Yogesh is added in the licence as partner alongwith Kokilabai and then name of Kokilabai is deleted on her request in 2007. While deciding the appeal filed by the petitioner, learned Commissioner has concurred with the findings recorded by the Collector.

Learned Advocate for the petitioner submitted

that the subordinate Authorities have not considered the document dated 13th November, 1973 by which the Superintendent of Prohibition and Excise called upon Shankar Laxman Mawle to deposit licence fee within 7 days and collect the licence. It is submitted that document dated 3rd September, 1974 issued by the Police Inspector, Buldhana to Shankar Laxman Mawle shows that Shankar was informed that sample of country liquor was collected from his shop. It is submitted that the Collector, Buldhana had issued an order dated 20th August, 1976 in the name of Shankar Laxman Mawle directing that country liquor, foreign liquor, toddy retail shop will remain closed on 28th August, 1976, 6th September, 1976 and 7th September, 1976. It is argued that if the licence was not in the name of Shankar Laxman Mawle there was no reason for the Authorities to issue the communications / orders in his name.

As per the order passed by this Court on 3rd January 2019, learned A.G.P. has made available the original record. The original licence shows name of Shaligram Laxman Mawle. The submission made on behalf of the petitioner, relying on the documents of 1973, 1974 and 1976 cannot be accepted, and on the basis of these documents it cannot be conclusively held that the licence was issued in the name of Shankar Laxman Mawle. Apart from this, the petitioner has not been able to show that in the last two decades Shankar Laxman Mawle had requested Authorities to substitute / include his name in the licence.

The conclusions of the subordinate Authorities are based on proper appreciation of the material on record. It cannot be said that the impugned orders are illegal or improper. I see no reason to interfere with the impugned orders. The writ petition is **dismissed**. No costs.

JUDGE

Tambaskar.