

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

WRIT PETITION NO.5641/2016

Smt. Manjudevi W/o Virendrakumar Jaiswal
..V/s..
The State of Maharashtra 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 Abhay Sambre, Advocate for the petitioner.
Shri A.A. Madiwale, A.G.P. for respondent Nos.1 to 3.

CORAM : RAVINDRA V. GHUGE, J.
DATED : 2.1.2020.

1] The petitioner seeks to challenge the order dated 12.2.2015 passed by the Superintendent, State Excise, Gondia by which the licence to vend the FL-III products in the hotels and holiday resorts has been refused despite the verdict of the Hon'ble Minister dated 1.8.2013.

2] The learned A.G.P. points out Section 137 of the Maharashtra Prohibition Act by which all orders passed by the Collector and Commissioner are appealable to the Commissioner and the State Government, respectively.

3] The learned Advocate for the petitioner has strenuously canvassed that since this petition has been

filed on 6.6.2016, this Court may entertain this petition keeping in view that the Superintendent of State Excise, Gondia has flouted the directions of the Hon'ble Minister set out in the order dated 1.8.2013, inasmuch as, the petitioner was not given an opportunity of hearing.

4] The Apex Court has recently held in the matter of *Virudhunagar Hindu Nadargal Dharma Paribalana Sabai V/s. Tuticorin Educational Society* (2019 SCC Online SC 1292) in Civil Appeal No.8945/2019 vide order dated 22/11/2019 that the writ jurisdiction of this Court under Article 226 inclusive of the supervisory jurisdiction, suffers “*near total bar*” in the face of the availability of a statutory remedy. The Hon'ble Apex Court has also delivered an order in the matter of *Genpact India Private Limited V/s. Deputy Commissioner of Income Tax*, Civil Appeal No.8945/2019, dated 22/11/2019 concluding that when a statutory remedy is available, even an admitted petition can be disposed off and the litigating sides can be relegated to the statutory remedy.

5] In view of the above, this petition is **disposed off** permitting the petitioner to avail of the statutory remedy under Section 137 of the Maharashtra Prohibition Act.

6] The time spent by the petitioner in this Court from 6.6.2016 till the passing of this order, shall be a

good ground for seeking condonation of delay, if any, and the competent Authority would consider all the contentions of the litigating parties in relation to the impugned order dated 12.2.2015, on their own merits.

(RAVINDRA V. GHUGE, J.)

Tambaskar.