

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**REVIEW APPLICATION (CIVIL) NO.92 OF 2021
IN
WRIT PETITION NO.4083 OF 2019**

**RAMESH REDDY MUTTYAMREDDY MUTTALWAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for Applicant : Mr. V.P. Latange h/f. Mr. P.U. Gujrathi
AGP for Respondent/State: Mr. A.A. Jagatkar
Advocate for Respondent Nos. 4 to 6: Mr. V.R. Dhorde
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CORAM : MANGESH S. PATIL, J.

DATE : 27.10.2021

PER COURT :

The applicant is the original petitioner seeking a review of the judgment and order dated 01.09.2021 whereby this Court dismissed his Writ Petition No.4083/2019.

2. The learned advocate for the applicant submits that the order suffers from an error apparent on the the face of record. He would submit that though the reference has been made to the circulars of the year 1989 and 1994 there is no reference to the circular dated 20.08.1996 which, in supersession of the earlier circular permits transfer of a CL-III licence during the life time of a licence holder. There is no reference made in the judgment to Rule 28 of the Maharashtra Country Liquor Rules, 1973. The Appeal preferred by the petitioner's father who was the original licence holder itself

was not maintainable. The fraud alleged by the father could not be established because of his demise. Even the Appeal preferred by the father was beyond the limitation. No reference was made to the order passed by the learned Commissioner of State Excise dated 25.11.2016 in Appeal No.18/2011. Had there been a reference to all these facts and circumstances, this Court would have come to a different conclusion. The judgment and order needs to be reviewed.

3. I have carefully gone through the Review Petition and the judgment and order as also the papers from the Writ Petition.

4. In substance the dispute was about transfer of a CL-III licence under the provisions of the Maharashtra Prohibition Act and the Rules and the Circulars issued by the Government from time to time pursuant to the enabling provision contained in Section 139 of the Maharashtra Prohibition Act. The petitioner is one of the sons of the deceased. On a request of his father in whose name the CL-III licence was standing, initially it was transferred in the name of the petitioner. The father subsequently raised a dispute by alleging fraud. Pursuant to his such dispute a fresh inquiry was conducted but unfortunately he died even before any final decision could be reached about the alleged fraud.

5. Though the circular dated 1996 apparently in supersession of the earlier two circulars permits transfer of CL-III licence during the life time of a licence holder, the scenario would not change. As can be seen from the judgment under review, the petition has been dismissed for variety of

reasons and not only on the ground that the licence could not have been transferred during the life time of the deceased.

6. In paragraph No. 9, it has been specifically demonstrated as to how even otherwise, independent of the dispute, the petitioner was not entitled to the transfer of CL-III licence. It was specifically pointed out as to how pursuant to Rule 28 of the Maharashtra Country Liquor Rules and the circular dated 20.08.1996, since already a CL-III licence was standing in the name of his wife and also as he was a partner of a business in whose name another CL-III licence was issued he was not eligible to get any other CL-III licence.

7. Again it is erroneous to state that no reference was made in the judgment and order under review to the circular dated 20.08.1996 or Rule 28 of the Maharashtra Country Liquor Rules when a reference to both these can be found in paragraph No.9 as well as 11.

8. Having considered the matter from all the aforementioned angles, in my view there is no sufficient and cogent reason to undertake review of the order. There is no formal defect. The Review Application is dismissed *in limine*.

(MANGESH S. PATIL, J.)