

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1041 WRIT PETITION NO.12201 OF 2021

NANDED ZILLA MADYA VIKRETASANGHATANA THROUGH ITS
AUTHORIZED SIGNATORY/CL III LICENSE HOLDER
VERSUS
THE STATE OF MAHARASHTRA AD ANOTHER

...
Advocate for Petitioners : Mr. Undre Vikram S
AGP for Respondents/State: Mr. S. G. Karlekar
...

**CORAM : S. V. GANGAPURWALA &
R. N. LADDHA, JJ.**

DATE : 29th October, 2021

PC. :

1. The by-election of 90-Deglur Assembly Constituency Election is declared. The polling is on 30.10.2021. The counting of votes is to take place on 02.11.2021. The Collector, Nanded passed an order on 25.10.2021 thereby directing the Members of the Petitioner Associations to keep their establishments closed from 28.10.2021 at 6.00 p.m. to 30.10.2021 till voting is completed. The order is made applicable to the entire Nanded District.

2. The learned counsel for the petitioner relies upon Section 135-C of the Representation of the People Act, 1951 and Rule 9-A of the Maharashtra Foreign Liquor Sale on Cash Rules.

3. The learned AGP submits that, the said ban on sale of liquor is imposed under the impugned order pursuant to the directions of the Election Commission of India as issued under its instructions dated 29.06.2017 and 18.01.2018.

4. Section 135-C of the Representation of Peoples Act prohibits the sale of spirituous, fermented or intoxicating liquors or other substances of a like nature at a hotel, eating house, tavern, shop or any other place, public or private, within a polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for any election in that polling area. Rule 9-A of the Rules, prohibits sale of a foreign liquor on the day or days on which poll in relation to any general election or by-election to any local authority in the State is taken in the constituency in which such premises are located and a day immediately before such day of poll and on the counting days.

5. Section 135-C of the Representation of the Peoples Act is abundantly clear and even 9-A Rule does not prohibit sale beyond the constituency.

6. Considering the above, by an interim arrangement, we pass the following order:

ORDER

(i) The restrictions imposed by the Collector under the impugned order shall be limited to the constituency area of the 90-Deglur Assembly Constituency only.

7. Writ Petition is disposed of. No costs.

(R. N. LADDHA, J.)

(S. V. GANGAPURWALA, J.)

Sameer