

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

WRIT PETITION NO. 521/2021.

M/s. Lahori Wine Shop
through its Proprietor, Maya
Pralhad Sharma, Aged about
60 years, Occc – Business,
resident of Dr. Ambedkar
Marg, Indora Chowk, Nagpur. ... Petitioner.

-VERSUS-

1.State of Maharashtra
through Principal Secretary,
(State Excise), Mantralaya,
Mumbai.

2.The Collector,
Civil Lines, Nagpur. Respondents.

.....

Shri S.P. Bodalkar, Advocate for the Petitioner.
Shri A. Madiwale, Assistant Government Pleader for the
Respondents.

.....

**CORAM : NITIN JAMDAR AND
ANIL S. KILOR, JJ.**

DATE : 29 JANUARY 2021.

P.C.

Heard learned Counsel for the Parties.

2. By this petition, the Petitioner has challenged the order passed by the Collector, Nagpur dated 20 January 2020, suspending the licence issued to the Petitioner under the provisions of *the Maharashtra Prohibition Act, 1949*.

3. There are no detail in this petition as to when was the licence issued, what is the serial number or for what purpose the same was issued. We have been orally informed by the learned Counsel for the Petitioner that the licence was a FL-II licence issued in the year 1986.

4. By order dated 20 January 2020, a notice was issued to the Petitioner by the Collector under Section 54 of the Act of 1949, wherein it was stated that on 24 December 2020, while patrolling, it was found that unauthorisedly liquor was being removed from the commercial establishment of the Petitioner. Statement of the Manager of the Petitioners' establishment was recorded and the statement revealed that such activity is being carried out regularly. On this premise a notice came to be issued under Section 54[1][c] of the Act of 1949, as to why the licence of the Petitioner should not be cancelled/suspended, and the Petitioner was called upon to submit explanation within 15 days.

5. The Collector recorded that on perusal of police

3

report and the material in the report, which established collaboration between the Petitioner and certain anti social elements, the licence is being suspended for 21 days.

6. The Act of 1949 provides for an appeal. Further a show cause notice for cancellation is issued calling upon the Petitioner to submit his explanation, wherein the Petitioner can put forth his case on merits. This Writ Petition is filed on the ground that the order suspending the licence is without jurisdiction and in breach of principles of natural justice.

7. As regards the order being without jurisdiction, the contentions cannot be accepted as Section 54 of the Act of 1949 expressly grants power to cancel and suspends the licence and permits. As regards suspension of licence is concerned, bare perusal of this provision does not mandate a pre-hearing nor any decision construing this power under Section 54 in this manner has been shown to us. There could be cases where immediate suspension to prohibit further unauthorized activities is warranted. In these circumstances, it may be counterproductive to give pre-hearing before suspending the licence. In the present case, the order refers to a police report and information regarding the association with anti social elements and it is the justification for placing an immediate restraint.

8. The contention of the Petitioner that having once given time to file reply, the licence could not have been

suspended, since notice was issued for suspension. It is not possible for us to agree with this submission. The notice was for cancellation and pending the decision on the cancellation in view of the circumstances referred thereto, power of suspension has been exercised, in which we do not find any error.

9. It was then sought to be contended by the Petitioner that on merits such power could not have been exercised, as there is no such material against the Petitioner. For challenging the order on merits, the Petitioner has a remedy of filing an appeal under the Act. Further the Petitioner will have an opportunity to give his say to the show cause notice.

10. In these circumstances no interference is warranted.

11. Writ Petition is accordingly dismissed. No costs.

(ANIL S. KILOR, J)

(NITIN JAMDAR, J)

Rgd

Rakesh
Dhuriya

Digitally signed
by Rakesh
Dhuriya
Date:
2021.02.05
10:21:44 +0530