

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

WRIT PETITION NO. 3512/2021

Mukesh Ramgopal Jaiswal

...Versus...

State of Maharashtra and others

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

Court's or Judge's orders

Mr. D.V.Chauhan, Advocate for petitioner
Ms.N.P.Mehta, AGP for respondent Nos. 1 to 5
Mr. K.R.Trivedi, Advocate for Respondent No.6

CORAM : AVINASH G. GHAROTE, J.

DATE : 17/12/2021

1] Heard Mr. Chauhan, learned counsel for the petitioner, who raises a grievance that the requirement of Clause 3A of the Bombay Prohibition (Closure of License on Resolution of Gram Sabha or Representation by Voters in the Wards of Municipal Council/Municipal Corporation) Order, 2008, has not been complied while directing holding of election on the complaint of the women residents of village Kawtha by the impugned order, for the purposes of shifting the CL-III license of the petitioner to out of the village.

2] Learned counsel for the petitioner submits that under Clause 3A of the said Order, a minimum of 25% of the women voters have to give a representation in writing to the concerned Superintendent of State Excise demanding closure of the liquor shop in the village and

the verification of such an application has to be done by the Superintendent of State Excise, after verification of authenticity of the signatures on the representation and its genuineness, which report has to be submitted to the Collector, based upon which the Collector has to act. Inviting my attention to the complaint dated 27.1.2021 at page 34, he submits that there are differences in the signatures of the persons signing at Sr. Nos. 6 and 9 as compared to their signatures in the second complaint, which starts at page 44, the relevant portion being at page 48, Sr. Nos. 93 and 99. He therefore submits that this is only a sample to indicate the difference in signatures and there are many more. He further submits that the language of Clause 3A specifically contemplates the verification of authenticity of signatures on the representation and its genuineness. He thus submits that this has not been done in so far as the present matter is concerned, due to which the impugned order cannot be sustained and is required to be quashed and set aside.

3] Learned AGP on the other hand submits that the verification as required under Clause 3A of the said Order has been done strictly in compliance with the requirement as contained therein. She submits that the latest voters list was sought for the verification of authenticity of signatures on the representation submitted by the women of village Kawtha and the Respondent No. 4 Inspector, State Excise has carried out the verification of

the signatures on 9.3.2021 and 10.3.2021 at Datta Mandir Hall, Kawtha, prior to which a proclamation by way of a 'Dawandi' was also made in the village, asking all the women voters to remain present along with their identification cards. She therefore submits that in the said meeting the identity of the complainants was established from the voters Id and the signatures were also verified from the said persons, in which out of 193 women in the village, 90 women voters were present and had confirmed having given the representation. She therefore submits that the figure of 90 women is more than 25% of the total number of women voters and therefore, the requirement as contained in Clause 3A of the said order stood satisfied.

4] The contention as to the nature of verification has to be looked into in the light of the language of Clause 3A of the said order. Verification of authenticity of signatures and its genuineness in the present context would not require a proof as strict as is required in a civil trial. The identity of the voters could always be verified from the voters identity card and so also the genuineness of the signatures could be verified from the concerned voters/women. This having been done, as is indicated from the report at Annexure R-3, dated 13.3.2021, I do not find that the requirement of authenticity and verification as well as genuineness as contained in Clause 3A of the said Order has not been complied.

5] The contention that the signatures of two of the complainants at Sr. Nos. 6 and 9 at page 34 differ with their signatures at page 48, in my considered opinion will have to be looked into in the context that these are simple villagers and therefore in that contextual background merely because there is some difference in the signatures in two complaints, that by itself would not take away the genuineness of the complaint, that too when these women residents of the said village have come forward in the verification process and asserted to have placed their signatures/thumb marks upon the complaint and the identity of such women residents having been verified from the voters Id card. That apart, even presuming otherwise, only two incidences, one of difference in signature and other of a thumb impression in place of signature, even if discarded would not bring down the number to something lesser than what is required, as more than 45% of the women voters have been verified to have signed the representation. I therefore do not see any merit in the petition and the same is accordingly dismissed.

6] Learned counsel for the petitioner seeks continuance of the interim order dated 16.9.2021 for a further period of four weeks in order to enable the petitioner to approach the Apex Court.

7] Considering that the voting has already taken place by virtue of the order dated 16.9.2021, however the

results have been directed not to be declared, the said order shall continue for a further period of three weeks from today.

JUDGE

rvjalit