

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3858 OF 2022

Arif Mannan Shaikh ... **Petitioner**
Versus
The State of Maharashtra & Ors. ... **Respondents**

Mr. Prashant Katneshwarkar a/w. Mr. Srirang Katneshwarkar i/b. Mr. Vikram S. Undre, Advocate for the Petitioner.

Adv. Sheetal M. Ubale, Advocate for Respondent.

Mrs. M. P. Thakur, AGP for the Respondents/State.

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

DATED : SEPTEMBER 8, 2022

P.C.

1. The auction had taken place for the license of the Toddy Shop. The petitioner was declared to be the highest bidder. The petitioner was directed to deposit the challan and further observed that if the petitioner does not deposit the amount, the license issued to the petitioner would be cancelled.

2. It appears that the petitioner deposited the amount. Subsequently, the respondent No.5 filed an objection. The respondent Authority considered the objection and set aside the license issued in favour of the petitioner and granted the same in favour of respondent No.5.

3. The contention of the petitioner is that the impugned action/order is without notice to the petitioner and without hearing the petitioner.

4. The learned AGP and learned Counsel for respondent No.5 submits that in fact the respondent No.5 was highest bidder. However, mistake was committed in declaring the petitioner as highest bidder. The same mistake was brought to the notice of the Authority and the same has been rectified. As per rule 55 of the Proclamation, the Authority has the power to cancel the license without any notice.

5. It is not a matter of dispute that the petitioner was issued license for the subject Toddy Shop. Subsequently, the objection was raised by respondent No.5 and under the impugned order, the same Toddy Shop is allotted to the respondent No.5. The same is behind back of the petitioner. The respondent Authority ought to have given notice of the fact that the license/allotment in favour of the petitioner is to be cancelled. The same has not been done.

6. In light of that, we pass the following order :

ORDER

(i) The petitioner and respondent No.5 shall appear before the Authority on 27th September 2022. The Authority shall hear the petitioner and respondent No.5 and consider the factual matrix and thereafter arrive at a fresh conclusion. While arriving at a fresh conclusion, the impugned order would not be an impediment.

(ii) The decision shall be taken by the Authority within

one month from the date of appearance of parties before the Authority.

(iii) Till the fresh decision is taken, respondent No.5 is permitted to proceed further with the Toddy shop. Upon decision taken by the Authority concerned, further steps be undertaken.

(iv) The writ petition is disposed of. No costs.

(R. N. LADDHA, J.)

(S.V. GANGAPURWALA, J.)