

Sonali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4083 OF 2022

Yashwant Parshuram Shetye

...Petitioner

Versus

State of Maharashtra & Ors

...Respondents

Mr Rahul D Motkari, *for the Petitioner.*

Mr PP Kakade, GP, *with RA Salunkhe, AGP, for the Respondent-State.*

CORAM G.S. Patel &
Madhav J. Jamdar, JJ.
DATED: 6th April 2022

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1. Heard.

2. Leave to amend to bring on record subsequent facts. Amendment to be carried out by Monday without need of reverification.

3. In our view, the Petition does not call for interference. The challenge is to an order of 28th March 2022 passed by the 4th Respondent, the District Superintendent of State Excise, Pune. A copy is at page 24. The order is under Section 142 of the Maharashtra Prohibition Act, 1949 and says that since there is an

expectation of a large crowd of people arriving at Mouje Vehergaon, Taluka Maval, District Pune for a particular religious procession or pilgrimage between 2nd and 10th April 2022, therefore, on 8th April 2022 when the maximum crowds are expected, liquor vending shops are to remain closed. The Petitioner has a licence known as Country Liquor or CL and Foreign Liquor or FL-III licence. His complaint is that he cannot be made to shut down on mere speculation that there may be a law and order problem.

4. The Petitioner does not dispute that the annual Fair in the name of “Ekvira Devi Yatra” is held at this time in village Vehergaon. He also does not dispute that in the past the State Excise Authorities have closed liquor shops for up to three days because of this fair. Mr Kakade for the State submits that such restrictions have been imposed almost for the last two decades. It is therefore, his submission that both the special occasion and the routine directions for closure are known and have always been known to the Petitioner himself.

5. By the amendment it is pointed out that the closure of the Petitioner’s shop is extended for two more days on account of crowd that will arrive for the fair. This makes very little difference.

6. An allegation is made in sub-paragraph 4(d) that establishments such as Petitioner have suffered enough during the closure on account of COVID. Paragraph 4(e) speaks of other vendors in a radius of 5 km and 10 km. That submission is in fact against the Petitioner because what Respondents have done is not to

cover a very wide or large area but have narrowly mentioned a specific geographical area in anticipation of extremely large crowds and a potential law and order situation. We do not believe that it lies in the mouth of the Petitioner to say that this is mere speculation. It is not speculation. It is a reasonable anticipation when large crowds assemble on festive occasions. The business of the Petitioner is not being shut down entirely.

7. Our attention is drawn to previous decision of Division Bench of Aurangabad Bench in *Parbhani Jilla Daru Vikreta Sanghatana vs State of Maharashtra & Ors*¹ and the decision of the learned Single Judge of the Bombay High Court in *Maharashtra Wine Merchants Association & Ors vs District Collector, Mumbai Suburban & Ors and Brihan Mumbai Daru Vikreta Sangh & Anr vs District Collector, Mumbai Suburban & Ors*.². The case before the Aurangabad Division Bench dealt with a matter of closure of liquor vending shops in an entire district. The case before the learned Single Judge related to the closure of liquor vending shops not only in a small area but across an entire ward or even more. That is not the case in the present matter.

8. In considering an application for the grant of an equitable discretionary writ remedy one of the factors that will have to be kept in mind, especially when an injunction is sought, is whether there is countervailing larger public interest to be borne in mind. We are of the view that the narrow interest of the Petitioner cannot be allowed to prevail over the larger public interest. The risk that is sought to be

¹2017 DGLS (Bom.) 1430

²Writ Petition (L) No.3852 of 2018 & Writ Petition (L) No.3853 of 2018

averted is the larger public interest and the anticipated law and order problem.

9. We reject the Petition. There will be no order as costs.

(Madhav J. Jamdar, J)

(G. S. Patel, J)