

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

WRIT PETITION NO. 3563 of 2022

Dilip Jethamal Motwani

vs.

The State of Maharashtra through its Principal Secretary, State Excise Deptt. Mantralaya,
Mumbai and others.

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

Court's or Judge's Order

Shri Vikram S.Undre, Advocate for petitioner.
Ms K. S. Joshi, I/c Government Pleader for respondents.

CORAM :- A.S.CHANDURKAR AND URMILA JOSHI-PHALKE, JJ.
DATE :- JULY 18, 2022

The petitioner has challenged the communication dated 25.05.2022 issued by the respondent no.5-The Sub-Inspector, State Excise Department, Brahmapuri, District Chandrapur calling upon the petitioner to obtain No Objection Certificate (NOC) of Gram Sabha of Gram Panchayat, Pachgaon, Taluka Bramhapuri, District Chandrapur for shifting the CL-III License from Ratnagiri to Pachgaon. According to the petitioner, a representation to that effect dated 11.05.2022 was made to the Collector in which it was stated that in view of Rule 25-D(3) of the Maharashtra Country Liquor Rules, 1953 (for short, the Rules of 1953), such NOC of the Gram Panchayat would not be necessary when shifting of the CL-III License was on account of any judicial order.

Learned In-charge Government Pleader however submits that there is no order passed by the respondent no.1 who is empowered to permit shifting of CL-III License from one district to another and consideration of the aspect as to whether obtaining the NOC is necessary or not is yet to be undertaken.

We find that presently the respondent no.5 has merely called upon the petitioner to submit the NOC of the Gram Sabha of Gram Panchayat, Pachgaon, Taluka Bramhapuri, District Chandrapur. According to the petitioner such NOC is not necessary in view of Rule 25-D(3) of the Rules of 1953.

In these facts, we find that the interest of justice would be served by directing the respondent no.3 to treat the communication dated 11.05.2022 as the representation of petitioner for shifting of the CL-III License. The respondent no.3 is free to forward that representation to the respondent no.1 since the issue involved pertains to shifting of the CL-III License from one district to another. As and when the respondent no.1 intends to take a decision in the matter, the petitioner shall be granted an opportunity of hearing so that his stand can be clarified before the respondent no.1. The representation be considered in accordance with law preferably within a period of eight weeks of receipt of the same by the respondent no.1.

Keeping all questions raised in the writ petition open, the writ petition is disposed of with aforesaid directions. No costs.

(URMILA JOSHI-PHALKE, J.)

(A.S.CHANDURKAR, J.)

Andurkar..