

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

46 WRIT PETITION NO.5736 OF 2012

NANDANGAUR NURAGAUR UPATUTUALLA
VERSUS
THE STATE OF MAH AND ORS

...
Advocate for Petitioners : Mr. P. R. Katneshwarkar
AGP for Respondents: Mr. S B Pulkundwar
Advocate for Respondents : Mr. R.N. Jain

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CORAM : NITIN W. SAMBRE & S. G. CHAPALGAONKAR, JJ.
Dated: April 24, 2023

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PER COURT :-

1. Heard.
2. The case of the petitioner is that CL-III license is the property of a partnership firm, of which he is one of the partner. According to him, he has applied to the respondent No.2-Collector for inclusion of his name in the said license, which prayer is not decided till this date.

3. Mr. Katneshwarkar, learned counsel appearing for the petitioner submits that, in the partnership firm, other partners viz. Shradha and others were also incorporated, who had preferred Writ Petition no.11600 of 2014 which was decided on 11.3.2019. According to him, while deciding the said writ petition, the order of this Court passed on 28.11.2014 was

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recalled with directions to hear the petitioner in WP no.11600 of 2014. As such, he would urge that the petitioners in WP No.11600 of 2014 be permitted to be impleaded as party respondents and after granting hearing to the said parties, petition be allowed with directions to the respondents authorities to implead name of petitioner as partners of the partnership firm, which is subject matter of this petition.

4. Mr. Pulkundwar, learned AGP appearing for respondent nos.1 to 3 would oppose the prayer. As according to him, the issue whether name of a person has to be impleaded as partner of a partnership firm and by virtue of such situation his name to be incorporated in the license, is within the ambit/domain of the respondents Collector. According to him, there is a report which is relied upon by the petitioner dated 15.11.2003. In view of above, the Court may direct the respondents to look into the matter.

5. Having appreciated the submissions what can be noticed is under the Maharashtra Prohibition Act, 1949 the Collector of a District is the Prohibition Officer of the said District, with whom powers are vested to deal with the prayer which is sought to be canvassed by the petitioner before this Court. In case, if
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Prohibition Officer has any issue in the matter, it is always open for him to refer the same issue to the Commissioner and, in the alternate, an order of the Collector passed under the provisions of the Maharashtra Prohibition Act, 1949 is appellable before the Commissioner under the Maharashtra Prohibition Act, 1949. Against such order of the Commissioner, a further revision is provided before the State Government.

6. In view of aforesaid statutory background, what can be noticed is, the petitioner has every right to establish of being impleaded in the licence as partner in the firm in whose name license stands. In such an eventuality, the claim of the petitioner is required to be dealt with by the respondent no.2-Collector and, in case, if he has no power, he has every right to pass an order referring the issue to the Commissioner Prohibition.

7. In this background and having regard to the order of the Division Bench of this Court in WP No.11600 of 2014 delivered on 11.3.2019, we deem it appropriate to direct the petitioner to appear before the respondent no.2-Collector. The respondent no.2-Collector shall read the petition of the petitioner as a claim for impleading of his name as a partner in the Licence in question. The said authority shall decide the prayer of the

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petitioner of impleadment of his name in the aforesaid license as partner of the firm, having regard to the report dated 15.11.2003 and subsequent development, if any. We further deem it appropriate to direct the respondent no.2-Collector to adhere to the directions issued in WP No.11600 of 2014 (Shradha w/o Nitesh Jaiswal and others Vs. Nandanagaur Nuragaur Upatutualla and others) decided on 11.3.2019 as the Collector before passing any order on the application of the petitioner must hear all the license holders including Shradha and others, who were petitioners in writ petition No.11600 of 2014. We direct the respondent no.2-Collector to complete the said exercise within a period of six (06) months from the date of production of copy of the order. Petition stands disposed off.

(S. G. CHAPALGAONKAR, J.)

(NITIN W. SAMBRE, J.)

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