

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

**CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 1434 OF 2020**

Shri. Ramesh Akaram Shirbhate

...Petitioner

V/s.

The State of Maharashtra & Ors.

..Respondents

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**Mr. Drupad Patil** i/by. Mr. Santosh L. Patil, for the Petitioner.

**Mr. Ajay Chate** Addl. G.P. with Mr. A.P. Vanarse, AGP for State-  
Respondent Nos.1 to 3.

**CORAM : SANDEEP V. MARNE, J.**

**Dated : 2 November 2023.**

**P.C. :**

1. Petitioner's original FL-2 license was at Shop Nos.3 and 4, Silver Oak, Vallabh Nagar, Pimpri, Pune. On account of the order of the Supreme Court dated 15 December 2016 directing closure of license within the vicinity of the State/National Highways, the Appellant was required to shift the location of his license at Udyam Nagar, Pimpri, Pune. Subsequently, by order dated 11 July 2017, the Apex Court permitted operation of licensees functioning in areas falling within the Municipal Corporation. Accordingly,

Petitioner applied for shifting of his license back to the original premises at Shop Nos.3 and 4, Silver Oak, Vallabh Nagar, Pimpri, Pune.

3. Mr. Patil, the learned counsel appearing for the Petitioner would submit that Petitioner had two reasons to seek waiver of privilege fees for seeking transfer of his license to the original place namely, (i) requirement to vacate the premises at Udyam Nagar, Pune on account of decree passed by Court of Small Causes, Pune and (ii) permission granted by the Apex Court to operate licenses in areas falling within the jurisdiction of Municipal Corporations by order dated 11 July 2017. He would submit that Petitioner pressed only the first ground of decree of court for seeking waiver of privilege fees in his application for transfer. Even before the Appellate Authority, Petitioner did not press the second ground of Supreme Court's order dated 11 July 2017.

3. It appears that the appellate Authority has rejected the Appeal by recording a finding that the order of the Court of Small Causes, Pune dated 10 February 2018 was passed by way of consent and on that count, the Petitioner has been denied waiver of privilege fees.

4. In these circumstances, Mr. Patil would request for liberty to Petitioner to apply to the Collector once again raising the

ground of order of the Apex Court dated 11 July 2017 for seeking waiver and refund of the privilege fees. He would submit that the issue of such waiver is now no longer *res-integra* and is covered by the Division Bench Judgment of this Court in **Vikram Uddhav Chug V/s. State of Maharashtra** 2019 1 Mh.L.J. 931.

4. Accordingly, the present petition is disposed of permitting the Petitioner to file a fresh application before the Collector to seek waiver and refund of the privilege fees by raising the ground of Supreme Court order dated 11 July 2017. The Collector shall decide the application as expeditiously as possible, preferably within a period of four months from today, without being influenced by the order of the Commissioner of State Excise, Maharashtra dated 13 May 2019 and order of the Minister, State Excise dated 30 August 2019.

4. With the above directions, the Writ Petition is **disposed of**. It is clarified that this Court has not considered the merits of the petition and all contentions are left open.

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**SANDEEP V. MARNE, J.**