

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

WRIT PETITION NO. 2400 OF 2023

Chandrapur Jilla Liquor Association Chandrapur,
through its Secretary Raju Madhukarrao Marakwar,
Aged about 57 years, Occ. Business,
R/o At Post Rajgad, Ward No.1, Tahsil Mul,
District – Chandrapur – 441225.

PETITIONER

.....VERSUS.....

1. The District Collector,
State Excise Department,
Chandrapur.
2. Superintendent of State Excise,
Chandrapur.
3. Superintendent of Police,
Chandrapur.

RESPONDENTS

Shri Sachin Zoting, Advocate for the petitioner.
Ms. N.P. Mehta, Assistant Government Pleader for the respondents/ State.

CORAM : A. S. CHANDURKAR AND M.W. CHANDWANI, JJ.

DATE : 13/4/2023

ORAL JUDGMENT (PER : A.S. CHANDURKAR, J.)

RULE. Rule made returnable forthwith and heard the learned counsel for the parties.

2. The challenge raised in this Writ Petition is to the order dated 12/4/2023 that has been passed by respondent No.1 – District Collector in exercise of powers under Section 142(1) of the Maharashtra Prohibition Act, 1949 (for short “Act of 1949”) declaring the District of Chandrapur to be a dry District on 14/4/2023 in view of “Dr. Babasaheb Ambedkar Jayanti”.

3. The learned Counsel for the petitioner submits that the

impugned order has been passed mechanically without considering the requirements of Section 142(1) of the Act of 1949. A similar order came to be passed by the District Collector, Amravati last year and that order was set aside in *Writ Petition No. 1567/2022 (Rahul S/o Babanrao Deshmukh Vs. The State of Maharashtra & Anr.)* by observing that the Collector had failed to record any satisfaction that it was necessary to order the closure of liquor shops in the District in the interest of public peace. The order impugned also does not indicate the same and except for the reference to likelihood of breach of peace, nothing further demonstrated. It is thus submitted that the impugned order is liable to be set aside.

4. The learned Assistant Government Pleader for the respondents has supported the impugned order by urging that power under Section 142(1) of the Act of 1949 has been exercised for bonafide reasons.

5. On hearing the learned Counsel for the parties, we find that the impugned order does not satisfy the requirements of Section 142(1) of the Act of 1949. This Court has held in paragraph 7 of the decision in *Parbhani Jilla Daru Vikreta Sanghatana Vs. State of Maharashtra & Ors. [2018(1) Mh.L.J. 343]* that merely on the basis of speculation or past experience, the Collector cannot direct closure of liquor shops in the District. Satisfaction is required to be recorded that the same is necessary in public interest.

It is clear that for recording such satisfaction, there has to be some material that is required to be considered by the Collector. However, the impugned order does not indicate reference to any such material. In fact, in the impugned order, there no reference to any communication being issued by the Police Authorities requiring

14/4/2023 be declared as a dry day and on this count the impugned order is found to be unsustainable.

6. Hence, for the aforesaid reasons, the order dated 12/4/2023 passed by the Collector, Chandrapur is set-aside. It is however clarified that the Collector is not precluded from passing a fresh order in accordance with the provisions of Section 142(1) of the Act of 1949 with due application of mind and by disclosing cogent reasons.

7. Rule is made absolute in the aforesaid terms with no order as to costs.

8. Parties to act upon an authenticated copy of this order.

(M.W. CHANDWANI, J.)

(A.S. CHANDURKAR, J.)

SUMIT