



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

WRIT PETITION NO.4729 OF 2023

Shakuntalabai W/o Shrikant Jaiswal, Sai Nagar, Amravati and anr.

-VS-

State of Maharashtra, Thr. Secretary, Dept. of Excise and Prohibition, Mantralaya, Mumbai and
ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri C. B. Dharmadhikari, Advocate for petitioners.

Ms Deepali V. Sapkal, Assistant Government Pleader for respondents.

CORAM : A. S. CHANDURKAR AND ABHAY J. MANTRI, JJ.

DATE : November 04, 2023

P. C.

1. Rule. Rule made returnable forthwith and heard the learned counsel for the parties.
2. In Writ Petition No.4529/2019 (*Dheeraj Mangalprasad Jaiswal vs. State of Maharashtra and ors.*), the learned Single Judge on 21/03/2023 set aside the order dated 26/02/2019 that was passed by the Collector on the application made by the petitioners seeking inclusion of the names of all legal heirs of late Shri Shivprasad Jaiswal in the CL-III license. A direction was issued to the Collector to decide the application afresh. This exercise has been undertaken and on 03/08/2023 the application has been rejected. To challenge the aforesaid order, the petitioners have sought to rely upon the averments in paragraph (10B) of the writ petition to contend that the opportunity of hearing was granted by the erstwhile Collector while the impugned order was passed by the incumbent who was holding the post after transfer of the said Collector. On 27/10/2023, the following order was passed :

*“ The learned Assistant Government Pleader to obtain the
record of the proceedings from the office of respondent No.3*

*in the light of ground (xii) in the writ petition.
Stand over to 04/11/2023.”*

3. The learned Assistant Government Pleader on instructions submits that the present Collector has passed the order dated 03/08/2023 though without hearing the parties. While passing the order the Collector had considered the matter by perusing the record. We find that this course adopted is not in consonance with the principles of natural justice. The Authority when required to decide the proceedings of the parties is also required to hear them and then consider the contentions. Hence on the short ground that the Authority which decided the application dated 31/03/2023 had not heard the parties, the order dated 03/08/2023 would not be sustainable.

4. Accordingly, the following order is passed :

- (a) The order dated 03/08/2023 passed by the Collector, Amravati is set aside.
- (b) It is directed that in accordance with the order passed in Writ Petition No.4529/2019, the application of the petitioners dated 31/03/2023 be decided afresh by granting an opportunity of hearing to all the concerned parties.
- (c) The needful be done within a period of eight weeks of receipt of copy of this order.
- (d) All points on merits are kept open.
- (e) Rule is made absolute in aforesaid terms. No order as to costs.

(Abhay J. Mantri, J.)

(A. S. Chandurkar, J.)