



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

WRIT PETITION NO. 6243/2023

M/s. Sakhare Bandhu through its Licensee Mr. Arvind Sakhare and Ors.

Vs.

State of Maharashtra and Anr.

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

Court's or Judge's order

Shri S. P. Bodalkar, Advocate for Petitioners.

Ms. N. P. Mehta, Assistant Government Pleader for Respondents.

CORAM : A.S.CHANDURKAR AND MRS.VRUSHALI V. JOSHI,JJ..

DATED : 14.09.2023

P. C.

. The challenge raised in the present Writ Petition is to the order dated 11.09.2023 passed by the Collector thereby declaring the area within Nagpur City to be a Dry Day on account of “Tanha Pola” Festival on 15.09.2023.

2. It is submitted by Shri S. P. Bodalkar, the learned Counsel for the petitioner that the restriction imposed is not supported by the provisions of Section 142(1) of the Maharashtra Prohibition Act, 1949 (for short, ‘the Act of 1949’). There is no satisfaction recorded by the Collector before passing the said order. The reference made to various crimes in the first paragraph of the said order cannot support the order that has been passed declaring 15.09.2023 to be a dry day. Reliance is placed on the decisions in *Writ Petition No.2928/2019 (Nitin S/o. Nagoraoji Mohod and Anr. Vs. The State of Maharashtra and Anr.)*, *Writ Petition No.1567/2022 (Rahul S/o. Babanrao Deshmukh Vs. The State of Maharashtra and Anr.)*, *Writ Petition No.304/2023*

(Shyam S/o. Kisanrao Mehetre Vs. The State of Maharashtra and Anr.) and Writ Petition No.2419/2023 (Nagpur Zilla Permit Room Association and Ors. Vs. State of Maharashtra and Anr.) to contend that the declaration as a dry day is unsustainable. It is therefore submitted that without the ingredients of Section 142(1) of the Act of 1949 being satisfied the impugned order has been passed. It is liable to be set aside.

3. Ms. N. P. Mehta, the learned Assistant Government Pleader supported the impugned order. She produced the record maintained by the Office of the Collector for perusal along with the relevant note sheet. She submits that the Collector was alive to the fact that reasons were required to be indicated while passing the order under Section 142(1) of the Act of 1949. All relevant aspects were taken into consideration for recording necessary satisfaction. It therefore could not be said that there was no material to pass the impugned order.

4. Having heard the learned Counsel for the parties and having perused the material, we find that Section 142(1) of the Act of 1949 requires a satisfaction to be recorded that in the interest of public peace sale of any intoxicant be prevented. The material before the Collector indicates that communication dated 14.09.2023 was received from the Office of the Deputy Commissioner, Special Range, Nagpur making reference to various offences and incidents that have occurred during the said relevant period for the last five years. After considering the same, the Collector in the impugned order has recorded that he was

satisfied that with a view to maintain law and order in the city of Nagpur on 15.09.2023 such ban was necessary. It is seen that the Collector has passed a detailed order indicating the basis for his satisfaction.

5. We have also perused the orders passed under Section 142(1) that were the subject matter of challenge in the decisions relied upon by the learned Counsel for the petitioner. The said orders were cryptic without any satisfaction being recorded for exercise of power under Section 142(1) of the Act of 1949. We do not find the present order to be similar to the orders that were the subject matter of challenge in the aforesaid writ petitions. The submission that the ban has been imposed only in the city of Nagpur and not the entire district especially when the festival is celebrated in the district would not vitiate the order. It is obvious that since material available was only with regard to the city of Nagpur, a dry day has been declared there. Hence, this contention cannot be accepted. Moreover, though the impugned order is dated 11.09.2023 the petitioners have approached this Court only today without explaining the reason for doing so. The petitioners have been deprived of a privilege only for a day in accordance with law.

6 For aforesaid reasons, we do not find any reason to interfere in writ jurisdiction. The writ petition is therefore dismissed.

(MRS.VRUSHALI V. JOSHI, J.)

(A.S.CHANDURKAR, J.)