

AGK

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2521 OF 2024

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Neelam Ganesh Suryawanshi

... Petitioner

V/s.

The State of Maharashtra & Ors.

... Respondents

Mr. Vinayak R. Salokhe with Ms. Sampada Khanolkar
and Ms. Megha Jani for the petitioner.

Mrs. V.S. Nimbalkar, AGP for the State.

CORAM : AMIT BORKAR, J.

DATED : APRIL 30, 2024

PC.:

- 1. Rule.** Rule is made returnable forthwith.
- 2.** The petitioner is challenging an order passed by the respondent No.1 confirming permanent cancellation of the petitioner's license granted under the provisions of the Bombay Prohibition Act, 1949.
- 3.** The respondent No.3 by order dated 10 April 2023 granted license in favour of the petitioner, subject to the conditions enumerated under the provisions of the Act and the Rules. The respondent No.3 based on complaint made by a Member of the Legislative Council carried out inspection of the licensed premises on 30 June 2023. Based on the inspection, the respondent No.3

issued show-cause notice to the petitioner. After giving opportunity of hearing to the petitioner, the respondent No.3 by order dated 4 October 2023 cancelled petitioner's FL-III license. The respondent No.1 by the impugned order dated 5 February 2024 confirmed the order of permanent cancellation.

4. On perusal of the order passed by respondent No.3, it appears that the breaches alleged against the petitioner are compoundable in nature. The petitioner has placed on record orders passed by respondent No.3 and other authorities to indicate that in relation to similar breaches, the authorities compounded such breaches by imposing fine of Rs.50,000/- or suspension of license for period of one month. However, in case of the petitioner, based on subsequent inspection, petitioner's license was permanently cancelled. On perusal of the respondent No.3's order, it appears that in relation to the instance of second breach no show-cause notice was issued to the petitioner. The second breach alleged is in relation to change in interior of licensed premises and sale of liquor without permit to the customer. Since second instance referred in the order was not mentioned in the show-cause notice, the respondent No.3 could not have cancelled the petitioner's license permanently. Moreover, considering nature of breaches alleged in the show-cause notice and considering the fact that the petitioner's business is closed for last six months, in my opinion, the impugned order cancelling petitioner's license permanently cannot be justified.

5. Rule is made absolute in terms of prayer clause (a).

6. The writ petition accordingly stands disposed of. No costs.

(AMIT BORKAR, J.)