

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5640 OF 2024

Tilok G. Lalwani & Anr.

.. Petitioners

Versus

The State of Maharashtra & Ors.

.. Respondents

Mr.Abhijit P. Kulkarni a/w Sweta Shah and Gaurav Sahane, Advocates for the Petitioner.

Ms.S.D. Vyas, Addl.G.P. a/w S.S. Bhende, AGP Advocates for State/Respondent.

CORAM :B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.

DATE : JUNE 28, 2024

P. C.

1. The above Writ Petition has been filed in very peculiar facts. Originally when the Petition was filed, the relief sought was for a direction to Respondent No.3- The Superintendent, State Excise Department, Pune and Respondent No.4- The Inspector, State Excise Department, Pune to forthwith issue a payment challan to the Petitioners for Rs.20,21,270/- so that the same could be paid for transfer of the CL-III License from Petitioner No.1 to Petitioner No.2 as per the order dated 14th June 2021 passed by Respondent No.2.

2. On 14th June 2021 a transfer of the said CL-III License from Petitioner No.1 to Petitioner No.2 was granted by the Collector (Respondent No.2) subject to payment of Rs.20,21,270/- [being five times the annual license fee which was 4,04,250/- + Rs.20/- as processing charges]. Once this order was passed by the Collector, on 1st August 2021 the Petitioners applied to the Collector and the Superintendent of State Excise to issue the necessary challan for the amount of Rs.20,21,270/- so that payment could be made. To this letter there was no response from any authority. Therefore, on 3rd June 2022, another letter was written to which again there was no response. Thereafter, similar letters were written on 14th June 2022, 24th June 2022, 21st March 2023, 6th April 2023, 14th April 2023, 17th April 2023, 26th May 2023, 30th May 2023, 26th December 2023, 4th January 2024, 8th January 2024, 12th February 2024, 4th March 2024 and 29th March 2024 making the same request for issuance of the challan. According to the Petitioners there was no response to any of these letters, and therefore, they were constrained to file the above Petition.

3. When the above Petition had come up before this Court on 30th April 2024 the learned Assistant Government Pleader appearing for

the Respondents was granted time to take instructions as to the reason for non-issuance of the challan to the Petitioners. Instead of getting these instructions as directed by this Court, the Collector, on his own, issued a fresh challan dated 6th May 2024, now for the sum of Rs.45 Lakhs. The basis of this fresh challan is purportedly a circular issued by the Government of Maharashtra dated 31st May 2022. Since this was a fresh challan, the Petitioners filed an Interim Application seeking amendment to the above Writ Petition *inter alia* challenging the said challan. That Interim Application was allowed by this Court vide its order dated 18th June 2024.

4. Today when the matter is called out, we inquired from the learned AGP as to how a fresh challan has been issued on 6th May 2024 for a much larger amount when the Collector, as far back as on 14th June 2021, had permitted the transfer of the CL-III License from Petitioner No.1 to Petitioner No.2 on payment of Rs.20,21,270/-. We also inquired from the learned AGP as to why the 17 letters written by the Petitioners to the authorities for issuance of a challan have gone unanswered. The learned AGP stated before us that she is unable to answer this question without the requisite instructions and sought time for a period of 2

weeks to take the necessary instructions and file an affidavit-in-reply to the above Writ Petition.

5. Though we are acceding to her request, we are not at all happy with the conduct of the authorities in the present matter. In the affidavit that they propose to file, we need a proper explanation as to why 17 letters written by the Petitioners have gone unanswered. If we find that the explanation given is unsatisfactory we will not hesitate to haul up the officer concerned.

6. We now direct that the learned AGP shall file the affidavit-in-reply on behalf of the Respondents on or before 12th July 2024 and serve a copy of the same on the advocates for the Petitioners.

7. In the meanwhile, and until further orders, the authorities shall not take any coercive action against the Petitioners on the basis of the challan dated 6th May 2024.

8. We put the parties to notice that we may dispose of the Writ Petition at the admission stage itself.

- 9.** Stand over to 15th July 2024 [First on Board].
- 10.** This order will be digitally signed by the Private Secretary/
Personal Assistant of this Court. All concerned will act on production by
fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.]

[B. P. COLABAWALLA, J.]