IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13560 OF 2024

Angad Mahendra Ghule ...Petitioner

Versus

The Collector of Pune & Ors. ...Respondents

Ms Veena Thadhani a/w. Ms. Rutuja Gaikwad & Ms. Bharti Nyaynirgune, *Advocates for Petitioner.*

Mr. Hiren Kamod a/w. Mr. Santosh Patil a/w. Mr. Arvind Tiwari, Swarta Suryawanshi, *Advocates for Respondent No.4.*

Ms. S.D. Vyas, Addl.G.P. a/w. Ms. V.R. Raje, AGP *for Respondent/State.*

CORAM : B. P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.

DATE : OCTOBER 17, 2024

P. C.

1. The above Writ Petition is filed *inter alia* seeking a direction to the Commissioner State Excise i.e. Respondent No.2 to revoke the suspension Order dated 27th May, 2024 suspending the Petitioner's Vendor's Liquor licence pending a fresh enquiry by Respondent No.1 in the light of the enquiry report submitted by the Collector dated 7th July, 2024. The other relief sought is to direct the Hon'ble Minister, State Excise i.e. Respondent No.3 to pass necessary orders in the

Revision Application, and which was filed challenging the Order dated 27th May, 2024, after considering the report of the Collector of Pune dated 7th July, 2024.

2. To decide the controversy in the present Writ Petition, the facts lie in a very narrow compass. The Petitioner's father and Respondent No.4 are real brothers. It is the case of the Petitioner that initially, a liquor license was granted to the grandfather of the Petitioner. On his demise, this license was transferred in the name of the grandmother in the year 1997 with the consent of all parties. Thereafter, in 2013 the grandmother took the Petitioner's father as a partner in the said license and they have been carrying on the business of selling liquor ever since. Suddenly in the year 2019, Respondent No.4 made an application to the Collector *inter alia* contending that even Respondent No.4 has a right in the license and his name ought to be included. This application of Respondent No.4 was rejected by the Collector on 30th July, 2019. Being aggrieved by this decision of the Collector, Respondent No.4 preferred an Appeal before the Commissioner State Excise (Respondent No.2) in 2019. No progress was made in that Appeal. Ironically, after the demise of the grandmother, and which was in 2023, the aforesaid Appeal was suddenly moved and the impugned Order dated 27th May, 2024 came to be passed. The impugned Order, which can be found at Exhibit

'E', *inter alia* states that in view of the serious objections and observations of the *prima facie* record it is prudent to suspend the licence until a fair and free inquiry into the matter is conducted. By the impugned Order, Respondent No.2 directed that the licence shall stand suspended until the Collector conducts inquiry into every aspect of the initial transfer and the later admission of parties. It was further directed that the Collector shall submit a full report to the office of the Commissioner of State Excise as expeditiously as possible. With these directions, the Appeal was disposed of.

3. Firstly, we fail to understand that if the Appeal itself was disposed of and the Commissioner of State Excise was rendered *functus officio* how he could ask the Collector to submit a full report to his office. Secondly, the license has been suspended until the enquiry is conducted, but what is to happen on the conclusion of that enquiry is not stated in the impugned Order at all.

4. Be that as it may, an enquiry has been conducted by the Collector and his enquiry report is dated 7th July, 2024 and which is also annexed to the Petition at Exhibit 'H'. According to the Petitioner, this report is completely in favour of the Petitioner and exonerates the Petitioner of any wrong doing.

5. Considering all these facts, we are of the opinion that since

the order of Respondent No.2 has been challenged before the Revisional Authority, namely, the Minister of State Excise and who has already heard the revision, and he is only required to pass an order, we would request the Hon'ble Minister of State Excise to pass the order in the Revision Application filed by the Petitioner as expeditiously as possible and in any event on or before 7th November, 2024. While passing the aforesaid order, it is needless to clarify that the Minister shall also take into consideration the report of the Collector of Pune dated 7th July, 2024 (Exhibit 'H' to this Petition). In order to ensure that principles of natural justice are not violated, before the Hon'ble Minister takes into consideration the report dated 7th July, 2024, Respondent No.4 and/or the Petitioner can put in writing their objections/say on the said report on or before 25th October, 2024. While considering the report, the Hon'ble Minister shall also take into consideration the respective objections/say of Respondent No.4 and/or the Petitioner while deciding the Revision Application. In our opinion, this would adequately take care of the principles of natural justice.

6. In the event, the order passed by the Hon'ble Minister in Revision Application is adverse to the Petitioner inasmuch as if the Hon'ble Minister reinstates the suspension order or passes any order which has effect of closing down the business of the Petitioner, the

same shall not be given effect to for a period of 10 days in order to enable the Petitioner to approach this Court.

7. We direct that in the meanwhile, the suspension order i.e. impugned order dated 27th May, 2024 shall remain stayed and kept in abeyance. In other words, the Petitioner shall be entitled to conduct his business. This is of course, however, subject to the outcome of the Revision Application filed by the Petitioner. In the Revision Application, the Minister is free to pass whatever order it deems fit in accordance with law including reinstating the suspension order that has been stayed by us.

8. The above Writ Petition is disposed of in the aforesaid terms. However, there shall be no order as to costs.

9. Though we have disposed of the above Writ Petition, we place this matter on Board for reporting compliance on **11th November, 2024**.

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.

[SOMASEKHAR SUNDARESAN, J.] **[B.P. COLABAWALLA, J.]**