



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

WRIT PETITION NO.2082 OF 2020

Sunita W/o Shrikisan Bhand .Vs. The State of Mah., through Secretary, Department of Home and Excise, Mantralaya, Mumbai and others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri N.B. Kalwaghe, Advocate for petitioner.

Shri P.P. Pendke, A.G.P. for respondent Nos.1 to 4/State.

Shri R.D. Karode, Advocate for respondent No.6

CORAM : ANIL S. KILOR, J.

DATED : 17/04/2024

1. This writ petition takes exception to the approval granted by the State of Maharashtra under Rule 25(c) of the Maharashtra Country Liquor Rules, 1973 to shift the CL-III license of respondent No.6 from Mouza Nakoda, Tah. and Dist. Chandrapur to Mouza Bibi, Tah. Lonar, Dist. Buldhana.

2. It is the case of the petitioner that, since beginning, the proceeding initiated for grant of permission to the respondent No.6 to transfer his license from Mouza Nakoda, Tah. and Dist. Chandrapur to Mouza Bibi, Tah. Lonar, Dist. Buldhana, she was opposing such transfer.

3. The learned counsel for the petitioner pointed out that, this Court in a writ petition filed by the petitioner,

namely writ petition No.3602 of 2019 directed the Collector to proceed in the matter. However, the Collector shall hear the petitioner before passing any order regarding grant of permission for shifting of CL-III license of respondent No.6 from Village Nakoda, Tah. and Dist. Chandrapur to Village Bibi, Tah. Lonar, Dist. Buldhana.

4. It is submitted that, the last hearing was conducted before the Collector on 29.08.2019 thereafter, the Collector was transferred and a new Collector joined in place of old on 11.01.2020. The Collector who passed the order dated 23.01.2020 did not conduct the hearing after transfer of the first Collector who conducted the hearing.

5. It is therefore submitted that, the Collector who conducted the hearing did not pass the order but the Collector who did not conduct the hearing has passed the same. It is submitted that, it is not permissible under the law and as such, the impugned order passed by the Collector dated 23.01.2020 is erroneous and consequently, the order of the Commissioner Excise as well as the State Government granting approval to such transfer vitiates.

6. The learned A.GP. is not disputing the fact that the Collector who has passed the order dated 23.01.2020

did not grant hearing to the petitioner but the hearing was conducted by the earlier Collector.

7. In the circumstances, I have no hesitation to hold that, the order dated 23.01.2020 was passed in violation of principle of natural justice and in breach of order passed by this Court in Writ Petition No.3602 of 2019 dated 09.05.2019.

8. In the circumstances, the order dated 23.01.2020 passed by the Collector, Buldhana needs to be quashed and set aside for the above referred reasons.

9. Moreover, as the order dated 23.01.2020 is held to be illegal, the subsequent order passed by the State Government dated 16.07.2020 also vitiates. Accordingly, I pass the following order :

- i) The writ petition is **partly allowed**.
- ii) The order dated 16.07.2020 passed by the State of Maharashtra in CLR-0720/Case No.86/S.E.-3 and the order dated 23.01.2020 passed by the Collector, Buldhana in CLR112019/418/Adhi/103, are hereby quashed and set aside.

- iii) The Collector is at liberty to proceed in the matter afresh if he so desires and pass the order after hearing the petitioner and the respondent No.6.

Writ Petition is **disposed of** accordingly. No order as to costs.

JUDGE