



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

WRIT PETITION NO. 3610 OF 2019

(Smt. Baleshwari w/o Vishwanath Balgamwar ..vs.. Collector, Bhandara and others)

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

Court's or Judge's orders

Mr. A.Y. Kapgate, Counsel for the petitioner,
Mrs. Mayuri Deshmukh, A.G.P., for respondent Nos.1 to 3.

CORAM : ABHAY J. MANTRI, J.

DATE : 19-10-2024

Heard Mr. A.Y. Kapgate, learned Counsel for the petitioner, and Mrs. Mayuri Deshmukh, learned Assistant Government Pleader for respondent Nos.1 to 3.

Perused the impugned order, record and judgment relied on by learned counsel for the petitioner in the case of *K.V. Acharya and another V State of Maharashtra and others* reported in *2000(3) Mh.L.J. 90*.

2. The petitioner is challenging the order dated 2nd May 2019, passed by the respondent No.1 Collector, Bhandara, by which FLI-III licence issued in her favour was suspended for 15 days.

3. The petitioner claims that she holds an FLI-III licence No.130 under the Maharashtra Foreign Liquor Rules, 1953, which was valid for 2019-20. She runs Chandralok Restaurant and Bar in Kinhali, District Bhandara. On 25/12/2018, Respondent No. 3 Sub-Inspector, State Excise, visited her Restaurant. In the godown, he found expired beer bottles and cans, which he seized. These bottles were never served to the

customers. However, on 09/05/2019, respondent No. 3 served the impugned order without giving her the opportunity to explain her side. Hence, this Petition.

4. The learned Counsel for the petitioner submitted that during the pendency of the petition, respondent No.1-Collector, Bhandara, renewed the FL-III licence in favour of the petitioner on 19-03-2024. Accordingly, the petitioner has filed the pursis on record on 12/09/24. Therefore, he has submitted that in view of the law laid down in the case of *K.V Acharya and another (supra)*, the issue raised in the present petition is squarely covered by the above-cited decision. Hence, he urged for the disposal of the petition.

Particularly, he has invited my attention to paragraph 5 in the said decision, which reads thus :

“5. A perusal of the aforesaid Rule shows that the licensing authority may refuse to renew the license if it is satisfied that the licensee is not a suitable person for continuing to hold the licence. Once the licensing authority renewed the license despite the omissions, offences and breaches committed by the licensee earlier thereto, it would mean that such licensee has been found to be a suitable person for renewal despite the said offences, breaches or incidents and therefore, the said offences, breaches or incidents could not be considered as a ground for suspension of licence when such offences, incidents or breaches were not found sufficient for refusal of renewal of licence.

This court relies on the decision in M/s. Hotel K.K. Sansar v. Dy. Commissioner of Police and others, wherein the identical question was involved and held that, in this view of the matter, I do not

intend to go into various questions raised by the petitioner in the writ petition challenging the impugned order."

5. On the other hand, Mrs. Deshmukh, the learned Assistant Government Pleader, has not disputed the said fact and position of the law and submitted it to the court's order.

6. Perusal of the pursis filed on 12-09-2024, it seems that respondent No.1-Collector renewed the FL-III licence in favour of the petitioner on 19-3-2024 for 2024-25.

7. Considering the fact of the renewal of the FL-III licence in favour of the petitioner, in my view, the dictum laid down in paragraph 5 of the said decision (supra) squarely applies in the case at hand.

8. In the aforesaid backdrop, I deem it appropriate to pass the following order.

The writ petition is disposed of in terms of prayer clause (i).

(ABHAY J. MANTRI, J.)