



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

WRIT PETITION NO.2373 of 2024

Prabhakar Gangaram Shinde and another through their Power of Attorney Holder,
Narsimulu V. Chepurwar

vs.

Gram Panchayat Dabha, through its Sarpanch, Tahsil Gondpipri and ors.

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

Court's or Judge's Order

Mr. R.P.Durge, Advocate h/f Mr. R.R.Vyas, Advocate for petitioner.
Mr. Madhur Deo, Advocate for respondent nos.1 and 2.
Mr. S.M.Ukey, Additional Government Pleader for respondent no.3.

CORAM :- NITIN W. SAMBRE AND ABHAY J. MANTRI, JJ.

DATE :- 12th AUGUST, 2024

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Heard.

2. It is the contention of the counsel appearing for the petitioner that for shifting CL-III licence he was in need of no objection from the respondent-Gram Panchayat. As a sequel of which, he made an application to the respondent no.1 which is processed through Gram Sabha.

3. Considering the request made by the petitioner, the Sarpanch of the Gram Panchayat in exercise of power under the provisions of the Bombay Village Panchayats (Gram Sabha Meetings) Rules, 1959 (for short, the Rules of 1959) particularly under Rule 4 convened a Special General Body Meeting in his own discretion so as to discuss the subject of grant of no objection for shifting of CL-III licence in the village panchayat jurisdiction.

4. For want of coram, said Special General Body Meeting was cancelled by the Village Panchayat Officer-Sarpanch in absence of powers to that effect. It is claimed by the counsel for the petitioner that at the most the Authority could have adjourned the said meeting as could be noticed under the provisions of Rules 4 and 5 of the Rules of 1959.

5. As such, he would urge that direction needs to be issued to the respondent to reconvene special meeting so as to deal with the issue of grant of no objection for shifting CL-III licence.

6. Mr. Deo, learned counsel for the respondent-Gram Panchayat while opposing the prayer would urge that the powers exercised by the Sarpanch under Rule 4 of the Rules of 1959 can be exercised suo motu only in case of exigency or in extraordinary circumstances. It is claimed that issuance of no objection certificate for shifting CL-III licence cannot be termed as an extra ordinary circumstance to call Special General Body Meeting. He would justify cancellation based on the above reason.

7. It is claimed that if the petitioner submits a fresh request for grant of no objection certificate, his request can be dealt with in the next General Body Meeting.

8. As against above, the counsel for the petitioner would urge that once the Special General Body Meeting of the Gram Sabha was convened, there are no powers to cancel the same without transacting the business for which it was called.

9. We have appreciated the aforesaid submissions.

10. We are not doubting the very bonafides of the Sarpanch as he has issued the notice of the meeting in an appropriate manner so as to maintain complete transparency by disclosing the subject to be transacted in the said Special General Body Meeting.

11. However, in the facts and circumstances of the case particularly having regard to the mandate provided under Section 7 of the Maharashtra Village Panchayats Act, 1958 (for short, the said Act), we deem it appropriate to direct the respondent no.1 to deal with the request of the petitioner for grant of no objection for shifting CL-III licence by convening a meeting in accordance with Section 7 of the said Act as expeditiously as possible and shall communicate the decision to the petitioner immediately thereafter.

12. We have issued above directions for two reasons: (a) Article 14 of the Constitution applies to the Right to Trade in

liquor though same is not a fundamental right. Hence, the petitioner has right to know the outcome of his request for grant of no objection certificate. (b) Right to Trade in liquor is governed by Maharashtra Prohibition Act and Rules framed thereunder. If liquor licence granted under the Act is permitted to be operated legally, same can arrest the illegal business of unauthorized sale of liquor which at times is spurious. Such lawful business can increase the revenue generation also.

13. Accordingly, the writ petition is partly allowed. No order as to costs.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

Andurkar.