



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

WRIT PETITION NO. 5609 OF 2024

Aravind Manohar Kinge,
aged about 38 years, Occ.Business,
Resident of Bhatrumandal Road, Malkapur,
Taluka Malkapur, District Buldhana.

....PETITIONER

....VERSUS....

1. State of Maharashtra,
Through its Secretary,
Department of State Excise,
Mantralaya, Mumbai-400032.

2. District Collector, Buldhana,
Office of the District Collector,
District Buldhana.

....RESPONDENTS

Shri Akshay A. Naik, Sr. Advocate i/b Shri Rohan Deo, Advocate for the petitioner.
Mr. D.V.Chauhan, GP with Mr.H.R.Dhumale, AGP for the respondents-State.

**CORAM : AVINASH G. GHAROTE &
SMT.M.S.JAWALKAR, JJ.**

DATE : 23RD SEPTEMBER, 2024

JUDGMENT (Per : Avinash G. Gharote, J.)

Heard.

2. Rule. Rule returnable forthwith. The petition is heard finally with the consent of the learned counsel for the parties.

3. The petition questions the order dated 09/09/2024 passed by the Collector, Buldhana, respondent No.2 in terms of section 142(1) of the

Maharashtra Prohibition Act by which the liquor licences granted to the petitioner has been closed for a period of two months from the date of the impugned order.

4. On an earlier occasion, in Writ Petition No.4913 of 2024, by the order dated 22/08/2024, we had already held that the power of the Collector to close places where intoxicant is sold under Section 142 of the Maharashtra Prohibition Act is not an absolute power but is circumvented by the necessity of mentioning the period therein and the reasons therefor (Pg.45) in light of which, we had set aside the order impugned therein dated 16/08/2024 and had directed the respondent No.2 to decide the complaint filed by one Manisha Milind Dhake and others according to the Rules and Regulations. It appears that in pursuance to the aforesaid order dated 22/08/2024, the respondent No.2 has passed the impugned order directing closure of the establishment which was run by the petitioner under the licences granted to him for a period of two months.

5. Mr. Naik learned Sr.Counsel for the petitioner by inviting our attention to the Maharashtra Prohibition (Closure of License by Gram-Sabha on Representation by Voters in the Ward of Municipal Council/Corporation) Order, 2008 (for short "Order of 2008") submits that in case of a complaint received in regard to the licences granted under the Maharashtra Prohibition Act, the procedure as indicated therein was mandatorily to be followed before any such closure was directed and Section 142 of the Maharashtra Prohibition

Act would therefore would not come to the aid of the respondent No.2 in directing such closure on account of the fact that the same was directed on the basis of the complaint by the residents of the locality in which the licence was in operation.

6. Though Mr. Chauhan, learned GP for the respondents supports the impugned order, however, what is material to note is that the complaint in this regard dated 12/08/2024 is by the female residents of the locality in which the licence is under operation. That being the position, the provisions of the Order of 2008, would squarely be applicable and the power under Section 142(1) of the Maharashtra Prohibition Act would not be available with the respondent No.2, in the facts of the present case and in such a case the closure could only be ordered in terms of the framework as contained in the Order of 2008.

7. We therefore, quash and set aside the impugned communication dated 09/09/2024, (Pg.79). We, however, make it clear that it will be open for the residents of the area in which licence is under operation to resort to the provisions of the Order of 2008 for redressal of their grievances. In view of the above position, since it is contended that the premises has been sealed, the same would be unsealed and the petitioner is permitted to operate the licence.

8. Rule is made absolute in the above terms. No costs.

(SMT.M.S.JAWALKAR,J)

(AVINASH G. GHAROTE, J)