



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

957 WRIT PETITION NO.246 OF 2025

**SHRADHA VILAS CHAVAN
VERSUS
THE COLLECTOR AURANGABAD AND OTHERS**

...
Advocate for the Petitioner : Mr.A.M.Gholap
AGP for Respondent-State : Mr.D.R.Korade
Advocate for Respondent no.4 : Mr.S.P.Koli h/f.
Mr.Akshaykumar Mete

...
**CORAM : ARUN R. PEDNEKER, J.
DATE : 03.12.2025**

P.C. :

1] The application of the petitioner for grant of FL-III license was rejected by the Collector by order dated 18.06.2024. Against the said order, the petitioner preferred Appeal No.258/2024 before the Commissioner for State Excise at Mumbai. By order dated 09.08.2024, the Commissioner has allowed the appeal filed by the petitioner, thereby granted FL-III license in favour of the petitioner. Thereafter, the respondent no.4 i.e. Indraprastha Seva Bhavi Sanstha has preferred revision before the State, challenging the order dated 09.08.2024 granting license to

the petitioner. Revision is pending before the State. During pendency of the revision, the respondent applied to the Collector for exercise of powers under Section 142 of the Maharashtra Prohibition Act, 1949 seeking transfer and closure of the place where intoxicant is sold. While considering the application of the respondent no.4, the Collector - respondent no.1, by order dated 1st January, 2025, has directed the petitioner to close the establishment until it is transferred to some other place on account of various complaints and opposition to run the establishment in the said premises. Against the said order, the present writ petition is filed.

2] The learned counsel for the petitioner submits that the petitioner has valid licence and that challenge to the grant of licence is pending before the State. He further submits that power under Section 142 of the Maharashtra Prohibition Act cannot be exercised for transfer or closure of the establishment. He further submits that the power of Collector to close the establishment under Section 142 of

the Maharashtra Prohibition Act is exercised only if the Collector is of opinion that it is in the interest of public peace to close any place in which any intoxicant or hemp is sold and the power is limited to close such place at such time or for such period as may be specified in the order. The learned counsel for the petitioner relies upon the judgment of the Division Bench of this Court in the case of **S.K.Restaurant and Bar, Nagpur Vs. State of Maharashtra and another** reported in **2023 DGLS (Bom.) 3274** particularly at para no.15 wherein in identical fact situation, it is held that the Collector in exercise of powers under Section 142 of the Act cannot permanently close the establishment till the license is shifted.

3] *Per contra*, the learned counsel for the respondent no.4 submits that the Collector can exercise the powers under Section 142 of the Maharashtra Prohibition Act if the Collector is of opinion that there is likelihood to breach of peace. He further submits that the licence granted in favour of the petitioner is very close to the residential

area and that they have filed revision before the State, challenging grant of licence to the petitioner. He further submits that the Collector has directed to close the establishment in view of the fact that the premises are situated very close to the residential area and considering the possibility of law and order situation, the Collector has closed the establishment. The learned counsel for the respondent no.4 relies upon the full bench judgment of this Court in the case of **Harpritsingh Bhupindersingh Hora and others Vs. State of Maharashtra and another** reported in **2024 DGLS (Bom.) 3801** particularly paras 30 and 31 and submits that under sub-section (1) of Section 142 of the said Act, an independent power has been conferred on the Collector to close any place in which any intoxicant or hemp is sold if the Collector is of the opinion that the same is in the interest of public peace. It is further observed that the Collector can exercise the power when under a circumstance he is of the opinion that the interest of public peace requires the closure of any place where intoxicant or hemp is sold, and secondly, the mode and manner of

exercising the power by issuing an order in writing to the person holding a license to keep such a place closed.

4] Having considered the rival submissions. The judgment cited by the learned counsel for the respondent no.4 particularly deals with the question whether the power of the Collector under Section 142 (1) of the Maharashtra Prohibition Act, 1949 to close any place in which any intoxicant or hemp is sold. Whether the Collector can close only one establishment or has power to pass order to close establishments in the entire District or part of the District. The question has been answered by the Full Bench of this Court in the case of **Harpritsingh Bhupindersingh Hora and others Vs. State of Maharashtra and another** reported in **2024 DGLS (Bom.) 3801** in para no.35, which reads as under :

35. Thus, we answer the question referred for our determination by summarising our conclusions as under:

(a) The Collector, in exercising power under sub-section (1) of Section 142, is empowered to issue directions to one 'person' or 'persons', but the requirement is to form an opinion that such closure is in the interest of public peace, and the order has to be in writing to the 'person' or 'persons' holding a license for the sale of intoxicant or hemp to close 'any place' or 'places' where the intoxicant or hemp is sold.

(b) There are no restrictions to issuing directions to more than one person; however, the directions issued to one or more than one person must be in the context of the closure of a 'place' or 'places' where the intoxicant or hemp is sold.

(c) Thus, in a given case, the directions issued by the Collector can be for the closure of 'one place' or more than one place, depending upon the opinion of the Collector that it is in the interest of public peace to close 'any place or places in which any intoxicant or hemp is sold'.

(d) Therefore, the word 'any place' interpreted by the Division Bench in the judgment under reference cannot be read to mean that there is any restriction on the powers of the Collector to direct the closure of more than one shop in a district under his jurisdiction. However, the words 'any place' cannot be read independently of the words 'where the intoxicant or hemp is sold'.

(e) The power of the Collector under sub-section (1) of Section 142 is thus to issue directions by an order in writing, directing the license holders to keep the place or places, i.e. the shop or shops closed where such intoxicant or hemp is sold. Thus, the directions have to be specific to the license holders and not a general direction.

(f) Thus, the powers conferred upon the Collector under sub-section (1) of Section 142 of the said Act are not restricted to one place, provided the Collector forms an opinion that it is in the public interest to keep the 'place' or 'places' closed 'where' the intoxicant or hemp is sold and the Collector issues the directions in writing to one person or more than one person holding the license for sale of such intoxicant or hemp.

(g) We do not find that the interpretation made by the Division Bench in the judgment under reference to the words 'any place' indicates any restrictions on the powers of the Collector to issue directions to more than one person and to close more than one place within the district under his jurisdiction, provided the parameters as contemplated under sub-section (1) of Section 142 of the said Act are satisfied as recorded by us in the above clauses.

The aforesaid judgment does not specific deal with the aspect of the period of such power or time frame for exercising such power under Section 142 of the Maharashtra Prohibition Act.

5] The judgment relied by the learned counsel for the petitioner in the case of **S.K.Restaurant and Bar [supra]** specifically deal with this aspect wherein the Division Bench has held that the establishment cannot be permanently closed or till the license is shifted and it clearly falls foul of the provisions of Section 142 of the Act. The said provision neither empowers the District Collector to order shifting nor to order permanent closure till the license is shifted. Considering the judgment in the case of **S.K.Restaurant and Bar [supra]** and having considered the final order passed, the same is contra to the judgment in the case of **S.K.Restaurant and Bar [supra]**. Considering the same, the Writ Petition is allowed. The impugned order dated 01.01.2025 passed by the respondent no.1 is quashed and set aside. However, if such occasion arises and there is need

to exercise powers under Section 142 of the Maharashtra Prohibition Act, the Collector is not prohibited in exercising such powers.

6] The liberty is also granted to the respondents to seek decision on the revision pending before the Revisional Authority expeditiously.

7] If such a prayer is made, the petitioner submits that he would not seek unnecessary adjournment in the revision pending before the Revisional Authority.

8] Writ Petition is disposed of accordingly.

[ARUN R. PEDNEKER]
JUDGE

DDC