

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10131 OF 2022

Smt. Kiran Anand Jaiswal] *Petitioner*

: *Versus* :

The State of Maharashtra & Ors.] *Respondents*

Mr. Arvind K. Tiwari a/w. Ms. Shraddha Kadam i/by. Mr. Santosh Patil, for
the Petitioner.

Mr. A.A. Alaspurkar, AGP for State.

CORAM : SANDEEP V. MARNE, J.

DATED : 28 APRIL 2025.

P.C. :

1) The petition challenges order dated 18 July 2019 passed by the Hon'ble Minister (State Excise) reviewing the order dated 18 August 2014 by his predecessor. By the impugned order, the Hon'be Minister has partly confirmed the order of his predecessor but has directed that interest be levied on renewal fees as per the rules as a pre-condition for renewal of license.

2) I have heard Mr. Tiwari, the learned counsel appearing for the Petitioner and Mr. Alaspurkar, the learned AGP appearing for Respondent-State.

3) The first issue for consideration is the power available with the Hon'ble Minister (State Excise) to review his own order. It appears

that there is no provision under the Maharashtra Prohibition Act, 1949 which confers jurisdiction on the Hon'ble Minister (State Excise) to review his own order. By now, it is well settled position of law that unless power of review is statutorily conferred, the same cannot be exercised by an authority, Court or Tribunal. Power to review an order is not an inherent power which can be exercised in absence of conferment thereof by way of a statute. In that view of the matter, it is clear that the Hon'ble Minister could not have reviewed the order passed by his predecessor on 18 August 2014.

4) Even on merits, the issue of liability to pay interest on the amount of renewal fees appears to be fairly well settled by catena of judgments delivered by this Court. In Ketki Ardeshir Kapadia Versus. State of Maharashtra & Ors.¹ the Coordinate Bench of this Court considered the provisions of Section 49 of the Bombay Prohibition Act, 1949 together with the relevant circulars and held that there is no provision for recovery of interest on license fees. The said judgment of Ketki Ardeshir Kapadia has been considered by the Division Bench in Maheshprasad Dwarkadas Jaiswal Versus. State of Maharashtra². The same is further followed by another Coordinate Bench of this Court in Ashok Pandurang Rane Versus. State of Maharashtra³. To put the entire controversy at rest, a Reference was made to the Division Bench in Smt. Sushilabai Mohansingh Thakur Versus. The State of Maharashtra & Ors.⁴ By judgment and order dated 10 November 2023, the Division Bench has answered the issue holding that when an application for renewal of license is made and the authority orders to pay or demands license fee or accumulated license fee, the said license fee becomes due within the meaning of Section 114 of the Act from the

1 WRIT PETITION NO.199 OF 2006 DECIDED ON 7.01.2011

2 2018 (3) ALL.M.R.649

3 CIVIL APPLICATION NO.2300 OF 2019 DECIDED ON 21.11.2019

4 WRIT PETITION NO.477/2020 DECIDED ON 10.11.2023 BY NAGPUR BENCH

date of the order or the demand. Thus, no interest is payable in respect of the past period on the amount of license fees. I have followed the judgment of the Division Bench in *Kishore Rahgunath Bhoir Versus. State of Maharashtra & Ors.*⁵

5) Thus even on merits, the impugned order passed by the Hon'ble Minister (State Excise) is unsustainable and liable to be set aside. The petition accordingly succeeds. The order dated 18 July 2019 passed by the Hon'ble Minister (State Excise) is set aside and the order dated 18 August 2014 shall continue to operate.

6) With the above directions, the petition is **allowed and disposed of.**

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[SANDEEP V. MARNE, J.]

⁵ WRIT PETITION NO.8720/2023 DECIDED ON 2 JANUARY 2025