

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6071 OF 2024

Lokranjan Breweries Private Limited & Anr ...Petitioners

Versus

State Of Maharashtra Through The Secretary, State ...Respondents
Excise Department & Anr

Mr. Venkatesh Dhond, Senior Advocate *a/w Akshay Patil, Aditya Bapat, Akshay Kamble and Neha Patil i/b Vivaka Partners, for the Petitioners.*

Mr. P.G. Sawant, AGP, for Respondent-State.

CORAM: SOMASEKHAR SUNDARESAN, J.
RESERVED ON: November 13, 2025
PRONOUNCED ON: December 9, 2025

Judgement:

Context and Factual Background:

1. Rule. By consent of the parties, made returnable forthwith, and taken up for final hearing and disposal.
2. This Petition impugns an order dated March 14, 2024 (“***Impugned Order***”) which directs Petitioner No.1, Lokranjan Breweries Private Limited (“***Lokranjan***”) to pay a sum of Rs. 24,94,665 into the

State treasury in connection with deficit licence fees said to be payable for the financial year 2016-17 for licence to manufacture country liquor (***“CL-1 License”***).

3. The Impugned Order is passed by the Learned Revenue Minister rejecting an Appeal filed by the Petitioners against an order declaring that the Petitioners ought to pay licence fees at the rate of Rs. 10 per case on the manufacture of the first 10 lakh cases of country liquor and at Rs. 7 per case on production in excess of 10 lakh cases.

4. The core grievance of the Petitioner that falls for consideration in the instant case is the interpretation of a notification dated January 30, 2016 (***“Notification”***) the relevant parts of which are extracted below:-

*In exercise of the powers conferred by clause (a) of Rule 4 of the Maharashtra Potable Liquor (Periodicity and Fees for Grant, Renewal or Continuance of License) Rules, 1996 and all other powers enabling him in this behalf, **the Commissioner is pleased to notify the rates of fees for the financial year 2016-2017 for licenses mentioned in Column No. (2) of the schedule appended hereto as specified against each of them respectively in Column No. (4) of the said schedule.***

<i>Sr. No.</i>	<i>Type of License</i>	<i>Description of License</i>	<i>Fee for grant / renewal / continuance for one year / one case (in Rupees)</i>
C-1	Form CL-1	License for manufacture of Country Liquor granted under Rule 3(2) of the Maharashtra Country Liquor Rules, 1973- For annual production-	
		(a) Minimum fees or average production of preceding three years upto 2,00,000 cases of 9 B.L or nil production.	20,00,000
		(b) From 2,00,001 to 10,00,000 cases of 9 B.L. each.	10 per case
		(c) From 10,00,001 cases and above of 9 B.L. each.	7 per case
		<u>Fees for the existing licence-holders should be paid as per rate prescribed above considering average production in cases of 9 B.L. each of preceding three years. Production exceeding average shall be liable for licence fees as per above prescribed rate per case considering overall production.</u>	

5. A plain reading of the Notification would show that for extension of existing licences for 2016-17, licence fees had to be paid in advance based on the average production for the preceding three years. Under this method, the licence holders were required to compute an average of the production effected by them in the preceding three years.

Based on such average, they would need to pay in terms of the rate set out in the table extracted above. If the production were to exceed such three-year average, the licence holder would be liable to pay licence fees in terms of the *rate per case* stipulated in the aforesaid table, considering *overall production*.

6. Lokranjan had an average production of 8,41,775 cases in the three years preceding 2016-17. The licence fees paid in advance was therefore paid on the basis of the rate stipulated in the table above, at Rs. 10 per case, aggregating to Rs. 84,17,750. Such payment led to extension of the CL-1 License for the year 2016-17.

7. During 2016-17 it became clear that Lokranjan's production would exceed 10 lakh cases. By a letter dated November 22, 2016, Lokranjan notified the Commissioner of Excise that production would exceed 10 lakh cases, and that the fees payable by it would have to be computed at the rate of Rs. 7 per case since that would be the *rate per case* applicable to Lokranjan *considering overall production*.

8. Eventually, by the end of 2016-17 Lokranjan had produced 11,30,345 cases. It was Lokranjan's case that since the overall production was above 10 lakh cases, the licence fees payable would need to be computed at Rs.7 per case, leading to a liability of Rs. 79,12,415.

Since an amount of Rs. 84,17,750 had already been paid, Lokranjan requested for a refund of Rs. 5,05,335.

9. This was resisted by the State, which insisted that Lokranjan ought to pay at the rate of Rs.10 per case on the first 10 lakh cases (Rs. 1 crore) and at the rate of Rs. 7 per case on the difference between 11,30,345 cases and 10 lakh cases (1,30,345 cases at Rs. 9,12,415), aggregating to over Rs. 1,09,12,415. This amount, reduced by the licence fees already paid (Rs. 84,17,750), would lead to a licence fee liability of Rs. 24,94,665, which was claimed by the State.

10. The State insisted that Lokranjan should pay such additional amount, and failure to make such payment would lead to its CL-1 License being cancelled. Eventually, a show cause notice dated December 3, 2021 was issued, asking Lokranjan to show cause as to why the licence must not be cancelled for non-payment of the licence fees claimed by the State. This was responded to by a letter dated December 20, 2021, with Lokranjan explaining that the amounts payable under the Notification were amounts payable in advance subject to adjustment if the production were to exceed the preceding three-year average production, taking into account the overall production.

11. The phrases “*rate per case*” and “*overall production*” are pressed into service by Lokranjan to essentially claim that if the overall production were in excess of 10 lakh cases, the rate applicable would be Rs. 7 per case, whereas if the overall production were to be below 10 lakh cases, the rate applicable would be in the sum of Rs. 10 per case. Any excess over and above the preceding three-year average would need to be paid for, Lokranjan would argue, at the rate per case, as applicable to the overall production.

12. Eventually, the Impugned Order was passed against Lokranjan. Essentially, the Impugned Order holds that the license fees payable would be on a slab-wise basis i.e. at Rs. 10 per case on the first 10 lakh cases produced and at Rs. 7 per case on production in excess of 10 lakh cases. Thereby, a license fee liability of Rs.24,96,665 was declared as being payable.

13. It is seen from the record that Lokranjan filed an application under the Right to Information Act, 2005 (“***RTI Act***”) and sought information on all CL-1 Licence holders whose three-year average production calculated in terms of the Notification was in excess of 10 lakh cases, along with details of the actual licence fees paid by them for 2016-17.

14. The State answered the query under the RTI Act, giving details of multiple licence holders who had a preceding three-year average production in excess of 10 lakh cases and overall production also in excess of 10 lakh cases, all of whom were uniformly charged licence fees at the rate of Rs. 7 per case on their overall production. In other words, the entire production by such parties was charged at the rate of Rs. 7 per case, and they were not charged licence fees on the basis of a slab system, by charging Rs. 20 lakhs on the first 2 lakh cases; followed by the next 8 lakh cases being charged fees at Rs.10 per case; and followed by license fee charged at Rs.7 per case on production in excess of 10 lakh cases.

Core Issue:

15. The core issue that lies at the heart of the adjudication in this Petition is whether the treatment meted out to Lokranjan constitutes arbitrary discrimination, unequal and inequitable treatment, falling foul of Article 14 of the Constitution of India. Whether the Notification stipulates a slab-wise layered and progressively lower licence fees after crossing 10 lakh cases, or whether it entails payment of a fixed rate per case depending on the overall production falling within the respective slabs, is the question to be answered.

Analysis and Findings:

16. I have heard at length, Mr. Akshay Patil, Learned Advocate on behalf of Lokranjan and Mr. P.G. Sawant, Learned AGP on behalf of the State. Mr. Venkatesh Dhond, Learned Senior Advocate was permitted to rejoin, in the absence of Mr. Patil. The hearing had to be held in multiple sessions to enable the parties to provide answers to my queries, for which the parties had sought time.

17. At first blush, the table extracted above would be suggestive of licence fees being chargeable at different rates for different components of the volume of production by CL-1 License holders. However, upon a careful review of the contents of the Notification, and the actual treatment given by the State to all CL-1 License holders, it is apparent that the State has charged all producers of above 10 lakh cases at the flat rate of Rs. 7 per case on the overall production. However, Lokranjan came in for differential treatment only because its preceding-three-year average production had been below 10 lakh cases.

18. The State was asked to confirm how many CL-1 License holders had their preceding-three-year average volume of production at below 10 lakh cases, but had eventually produced more than 10 lakh cases in 2016-17. Based on an affidavit filed in response to this query, it

is evident that Lokranjan was the only existing license holder who had had a three-year production average of below 10 lakh cases before the start of 2016-17, and had exceeded the threshold in 2016-17.

19. Therefore, it became clear that the only reason for treating Lokranjan differently across all CL-1 Licence holders who had produced in excess of 10 lakh cases in 2016-17 was that, before the year began, Lokranjan had had an average production of below 10 lakh cases.

20. Whether such differentiation is intelligible, rational and reasonable, bearing in mind the express language of the Notification, is the question to be considered. Without even getting into the difference between a licence fee and a tax, or examining whether the Notification is a fiscal instrument, in my opinion, the answer is found even from a plain reading of the contents of the Notification.

21. Where the production of any CL-1 License holder exceeds the three-year average which formed the basis of paying the fees in advance, the fees payable is governed by the following language in the Notification:

Production exceeding average shall be liable for licence fees as per above prescribed rate per case considering overall production.

[Emphasis Supplied]

22. This language does not differentiate between the slabs in which the CL-1 Licence holder was placed before the start of 2016-17. It simply provides that where the production exceeds the average, the licence holder would be liable to pay fees as per the “*above prescribed rate per case considering overall production*”. Therefore, the ingredients to be looked at for licence holders whose production exceeds their average are: (i) the overall production; and (ii) the rate per case prescribed for such overall production volume.

23. If the overall production were to be 2 lakh cases or below, the license fees would be a flat rate of Rs. 20 lakhs. If the overall production were to fall between one case more than 2 lakh cases and 10 lakh cases, the rate applicable would be Rs. 10 per case. If the overall production were to be in excess of 10 lakh cases, the rate applicable would be Rs. 7 per case.

24. It stands to reason that this is precisely why it transpires that the State has charged all CL-1 Licence holders who produced more than 10 lakh cases in 2016-17, at a flat rate of Rs. 7 per case. There is nothing in the Notification to indicate that only those whose production moves up from a preceding-three-year average of below 10 lakh cases to an actual production of more than 10 lakh cases, should be charged license

fees on the production in a graded manner. The Notification is conspicuous in its silence about any such differential treatment when the three-year-average production and the actual production, fall in different buckets.

25. The State has rightly treated all producers of more than 10 lakh cases uniformly at the flat rate of Rs. 7 per case. The Impugned Order adopts a slab-wise layered application of the licence fee rate for Lokranjan, holding it liable to pay for production in excess of 8,41,775 cases but up to 10 lakh cases at the rate of Rs.10 per case and for production in excess of 10 lakh cases at the rate of Rs.7 per case.

26. Treating Lokranjan differently for no reason other than its earlier average production having been below 10 lakh cases is irrational, arbitrary and devoid of any intelligible differentiating characteristic. No such characteristic is stipulated in the Notification. Therefore, the treatment being given to the sole manufacturer (of that year) whose average was below the threshold of 10 lakh cases and whose actual production was in excess of such threshold, is liable to be interfered with as being arbitrary and not backed by any provision in the Notification or indeed by logic and reason.

27. Mr. Patil, the Learned AGP strenuously urged that perhaps all other manufacturers too have been wrongly charged at a flat lower rate of Rs. 7 per case and such an error cannot be expected to also be extended to Lokranjan on the premise of equality under Article 14. I am unable to accept such suggestion. The treatment of all others producing above 10 lakh cases, uniformly with a flat rate of Rs. 7 per case, is consistent with the Notification as explained above. Lokranjan, which falls in the same category as such others, producing more than 10 lakhs cases in that year, should be given the same treatment.

28. There is simply no basis to discriminate against manufacturers whose production exceeded 10 lakh cases in 2016-17, only because their preceding-three-year average production had been below 10 lakh cases. It is settled law that licence fee is a fee payable for the privilege of legitimately carrying out the activity for which a licence is necessary by law. The privilege in question covered by the CL-1 Licence was the production of country liquor for the year 2016-17. The basis for charging the licence fee, specifically, was the *overall production* in that year at the rate applicable in the table set out in the Notification. The contingency of the actual production exceeding the average was also clearly envisaged and provided for in the Notification, without any differentiation between the threshold within which the average fell

before the start of the year. Therefore, for existing CL-1 Licence holders, the slabs were an objective basis to moor the licence fees payable by them in advance, subject to adjustment on the actual production at the per-case rate, based on the overall production.

29. Therefore, both by a literal reading of the Notification and a purposive and logical understanding of the same, consistent with the State's own treatment of all other CL-1 Licence holders who fell in the same category of actually producing more than 10 lakh cases, I have no hesitation in quashing and setting aside the Impugned Order.

30. The State shall provide a refund or give credit to Lokranjan for any excess amounts that Lokranjan has had to pay in order not to have its CL-1 Licence cancelled. If Lokranjan has not paid the excess amount directed to be payable under the Impugned Order, it would not be liable to pay such amount.

31. While costs ought to follow the event, in my opinion, it would suffice to direct that interest on such refund, or as the case may be, a credit towards licence fees, shall be provided by the State in accordance with the rate, if any, applicable for refund of fees.

32. The Writ Petition is hereby ***allowed***. Rule is made absolute in the aforesaid terms.

33. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]