



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

WRIT PETITION NO. 1279 OF 2022

- PETITIONERS :**
1. Jitendra Himmatrao Dharmale,
Aged about 38 years, Occ. Business,
 2. Dadasaheb Himmatrao Dharmale,
Aged about 32 years, Occ. Business

Both R/o. Belora Road, Chandur Bazar,
Tah. Chandur Bazar, District Amravati.

VERSUS

- RESPONDENTS :**
1. The Chief Officer,
Municipal Council,
Chandur Bazar, Tah. Chandur Bazar,
District Amravati.
 2. Food Safety Officer,
Food and Drugs Administration,
Mah. State, Amravati,
Javade Compound, Near Bus Depot,
Amravati -444006.
District Amravati.
 3. Assistant Tax Inspector,
Municipal Council,
Chandur Bazar, Tah. Chandur Bazar,
District Amravati.

Shri S. D. Chande, Advocate for petitioners.

Shri T. N. Charaniya Advocate for respondent Nos.1 and 3.

Ms. D. I. Charlewar, Assistant Government Pleader for respondent No.2.

CORAM:- SACHIN S. DESHMUKH, J.

DATED : 30/07/2025.

ORAL JUDGMENT :

1. **Rule.** Rule made returnable forthwith. Heard finally with the consent of learned counsel appearing for the parties.

2. The petitioners are aggrieved by the communication dated 25/01/2021 by which the licence granted to the petitioners has been revoked. The contention put-forth on behalf of the petitioner is that the concerned officer has acted under dictate of the then President of the Municipal Council and in the process, no hearing was conferred upon the petitioner. The impugned communication does not refer to the breach of any stipulation contained while using licence. As such, the communication is not tenable.

3. Per contra, Shri T. N. Charaniya, learned counsel for the Municipal Council has justified the communication submitting that the complaints were received through the President and as such, action is taken for revoking the licence of the petitioners, which is granted in the year 2020, in the process reliance is placed upon the response presented on behalf of Municipal Council so as to justify its action.

4. It is also submitted that it's Municipal Council, who is the issuing authority, as such it can revoke the licence. It is a matter of record that the licence was duly issued in favour of the

petitioners. The impugned communication does not refer to the breach of any of the stipulation. Rather the act of Issuing Authority under the dictates is evident from the letter of the President, which is unequivocally referred in communication under challenge. Nevertheless, no hearing was ever conferred upon the petitioners before initiating action of revoking of their licence. Also entire action of revoking licence of petitioners is premised on preponderance of probability.

5. When confronted with absence of justifiable reasons, the counsel for respondent attempted to justify the action of revocation while relying upon reply presented on behalf of Municipal Council, however, every action essentially has to be tested in the wake of reasons forming part of order itself and reasons cannot be supplemented by way of an affidavit. Said issue is no more res integra in the light of authoritative Judgment in case of **M. S. Gill Vrs. Union of India (1978) 1 SCC 405** as such action of revocation cannot be permitted to be justified by relying on affidavit so presented.

6. As such, the impugned communication dated 25/01/2021 issued by the respondent No.3 is not sustainable. Therefore, same is quashed and set aside.

7. The writ petition is allowed. Rule is made absolute in the above terms with no order as to costs.

8. Needless to state that this will not preclude the Municipal Council from taking further action, however, same shall be strictly in accordance with law.

[SACHIN S. DESHMUKH, J.]