



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

WRIT PETITION NO. 1301 of 2025

Sagar s/o Laxminarayan Shivhare

vs.

The Commissioner, State Excise Department and others.

Mr. H. V. Thakur, Advocate for petitioner.

Mr PPPendke, AGP for respondent nos. 1 to 3.

CORAM :- ANIL S. KILOR and RAJNISH R. VYAS, JJ.

DATE :- 15th DECEMBER, 2025

P C.

The petitioner is a Legal Heir of the MF-II (Mhowra Flowers) licensee Laxminarayan Ambacharan Shivhare. On his death, the petitioner applied for entering his name as a Legal Heir of the original licensee which was denied on the ground that as per Clause 5 of the Circular dated 11.05.2021, it cannot be transferred in the name of Legal Heir of MF-II licensee.

2. This Court vide order dated 12.08.2024 passed in Writ Petition No.5754 of 2023 has held that Clause No.5 in the Circular dated 11.05.2021 would be without authority in law. It is further held that no other statutory provision, rule or Government Resolution was pointed out to indicate empowerment of the Commissioner of State Excise, to impose such prohibition. The said order/judgment dated 12.08.2024 passed in Writ Petition No. 5754 of 2023 has attained finality and is binding.

3. In the aforesaid backdrop, as the present case is squarely covered by aforesaid judgment/order, we are of the opinion that denial of the prayer of the petitioner vide impugned order dated 19.07.2022 to transfer the license in question in the name of Legal Heir of the original licensee i.e. in the name of the petitioner, is illegal and bad in law.

4. However, as Clause 18 provided under the said Circular dated 11.05.2021, gives discretionary powers to the Collector to enter the name of

the Legal Heirs of the original licensee in case of death of the original licensee, we are of the opinion that the claim of the petitioner can be considered under aforesaid Clause.

5. Accordingly, we pass the following order:

- (i) The writ petition is allowed.
- (ii) The impugned order dated 19.07.2022 passed by the respondent no.2-Collector, State Excise Department, Amravati, in Case No.MH.2022/701/Adhi,1748 is hereby quashed and set aside.
- (iii) The Respondent no. 2 is directed to decide the application of the petitioner dated 22.03.2022. The Respondent no.2-Collector shall not take into consideration Clause 5 of the Circular dated 11.05.2021 while deciding the application and while determining the eligibility of the petitioner as Legal Heir of the original licensee.
- (iv) The respondent no.2 shall take a decision on the application of the petitioner dated 22.03.2022 within a period of three months from the date of furnishing the copy of this order before it.

With these observations and directions, the writ petition is disposed of.
No order as to costs.

(RAJNISH R. VYAS, J.)

(ANIL S. KILOR, J.)

Andurkar.