



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

Writ Petition No.7351/2024

Mayur s/o Madanalal Jaiswal,
Aged about 40 years, Occ.-Business,
holding CL-III Licence bearing No.285,
R/o.-Sawargaon, Tq. Narkhed, District Nagpur.

.... Petitioner.

Versus

1. The State of Maharashtra,
Department of Home and Excise, Mantralaya, Mumbai,
through its Secretary.
2. The Commissioner, State Excise, Old Custom House, Mumbai.
3. The Collector, State Excise, Nagpur.
4. Smt. Parvati G. Kalbande,
R/o.-Sawargaon, Tq. Narkhed, Distt Nagpur.
5. Gram Panchayat, Sawargaon,
through its Secretary, R/o.-Sawargaon, Distt Nagpur.

.... Respondents.

Mr. S.G. Jagtap, Advocate for petitioner.
Mr. A.V. Band, Advocate for resp. no.4.
Ms D.V. Sapkal, AGP for resp. nos.1 to 3.

CORAM : PRAFULLA S. KHUBALKAR, J.

Closed on : 24-11-2025.

Pronounced on : 18-12-2025.

J u d g m e n t

Rule. Rule made returnable forthwith. Heard finally by consent of the parties.

2. The petitioner- a CL-III licensee has challenged order dated 14-10-2024 passed by respondent no.1 interfering with the order passed by respondent no.2-Commissioner of State Excise in the matter of shifting of petitioner's CL-III license.

3. The petitioner is holding CL-III license No.285. The license was initially run in the premises of one Mr. Madanalal Jaiswal at Masura

road, Sawargaon, Taluka Narkhed, District Nagpur and then it was shifted to the premises of one Mr. Suresh Dhoke at House No.13, Ward No.4 Sawargaon, Taluka Narkhed, on rental basis and accordingly the petitioner submitted an application dated 11-05-2022 to the Collector for shifting of the said license. In this regard, the Superintendent of State Excise conveyed his no objection vide report dated 09-05-2023. So also Police report dated 11-08-2022 was also in favour of the transfer. Despite this, the Collector passed order dated 05-01-2024 and refused permission for shifting of the license. Feeling aggrieved by this, the petitioner filed appeal under Section 137(2) of the Maharashtra Prohibition Act, 1949 (for short, 'the said Act'), before the Commissioner of State Excise. After giving due consideration to the relevant aspects, the appeal filed by the petitioner was allowed by setting aside the order passed by the Collector and the petitioner was allowed to shift his CL-III license to the new premises of Mr. Suresh Dhoke. This order was subjected to challenge by respondent no.4 before the Hon'ble Minister of State Excise. By order dated 14-10-2024, the revision application filed by respondent no.4 came to be allowed and the order passed by the Commissioner got set aside. Feeling aggrieved by this order, the petitioner has filed the instant petition.

4. Assailing the impugned order, learned Counsel for petitioner submitted that the impugned order is passed without considering the well reasoned order passed by the Commissioner and by ignoring the report submitted by the Superintendent of State Excise and the Police department. He submitted that there is no case of breach of conditions of license and the shifting of the license as sought for by the petitioner was

very much warranted. He submitted that the Hon'ble Minister has erroneously relied upon some resolutions of Mahila Gram Sabha by ignoring the fact that the Commissioner has recorded approval of the Mahila Gram Sabha for shifting of the license.

5. Learned AGP appearing for respondent nos.1 to 3 submitted that although the shifting of license was permitted by the Commissioner by a reasoned order, the order passed by the Hon'ble Minister is not at all perverse. She thus justified the impugned order passed by the Hon'ble Minister.

6. Mr. Band, learned Counsel for respondent no.4 opposed the petition and submitted that the resolution of Mahila Gram Sabha revealed that there was opposition to the shifting of license and the same was rightly considered by the Collector while passing order dated 05-01-2024. He submitted that in view of the opposition raised by the ladies of the village considering the possibility of law and order situation, the impugned order passed by the Hon'ble Minister needs no interference.

7. In support of his contentions learned Counsel for respondent no.4 placed reliance on judgments of this Court in the matter of *Shri Ishwateshwar Siddheshdeep Co-op. Housing Society Limited vs The State of Maharashtra and others*, reported in *2016 SCC OnLine Bom 15054* and *Hotel Shobha vs Hon'ble Minister*, reported in *2012(6) Mh.L.J. 708* and submitted that the residents of the locality are entitled to raise their objection to the shifting of liquor license and the authorities are bound to give due consideration to the valid objections.

8. While considering the controversy involved in the petition, it has to be seen that undisputedly the Superintendent of State Excise has given no objection to the shifting of license. Pertinently there are three other FL-III licenses and two CL-III licenses functioning in the same village without causing any law and order problems. As regards the issue of possibility of any law and order situation, the Commissioner has observed in its order dated 21-02-2024 that the authorities are empowered under Section 142 of the Act to pass appropriate orders depending upon the fact situation. As such, in the wake of no objection by the Superintendent of State Excise and even a favourable Police report, the impugned order passed by the Hon'ble Minister by only focusing upon some resolution of the Mahila Gram Sabha depicts an erroneous approach.

9. Pertinent to note that the Commissioner of State Excise has also given due consideration to the said resolution of Mahila Gram Sabha dated 25-06-2022 and has observed that the resolution does not record any opposition to the shifting of the license. Having regard to the fact that the only reason as stated in the impugned order is the alleged opposition by the Mahila Gram Sabha, the impugned order does not stand to the scrutiny of law. Needless to state that in the event of any law and order situation or any breach of conditions by the licensee or any situation requiring action under Order 2008 of the Bombay Prohibition (Closure of License on Resolution by Gramsabha or Representation by Voters in the Ward of Municipal Council/Corporation), the same can be initiated, if situation arises.

10. As regards the judgments relied upon by learned Counsel for respondent no.4, the position of law is not disputed. It has to be seen that in the instant case the resolution of the Mahila Gram Sabha dated 25-06-2022 was considered by respondent no.2 and by considering the consent for shifting of the premises the order was passed. As such, the judgments relied upon by the Counsel for respondent no.4 are of no assistance.

11. Having regard to the above mentioned factual and legal aspects, I am of the firm opinion that the order passed by the Commissioner of State Excise dated 21-02-2024 permitting shifting of the license required no interference. The impugned order dated 14-10-2024 passed by the Hon'ble Minister setting aside the order dated 21-02-2024 is unsustainable in law and deserves to be quashed and set aside. Hence, I pass the following order :-

- (a) Writ Petition is allowed.
- (b) Order dated 14-10-2024 passed by respondent no.1/Hon'ble Minister of State Excise is quashed and set aside.
- (c) Order dated 21-02-2024 passed by respondent no.2- Commissioner of State Excise, Old Custom House, Mumbai is restored.

12. Rule is made absolute in above terms. No order as to costs.

(Prafulla S. Khubalkar, J.)