



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

WRIT PETITION NO. 7067/2025

(M/S MILIND TRADING COMPANY **VERSUS** STATE OF MAHARASHTRA & ANOTHER)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri Parth Malviya and Sumeet P. Bodalkar, counsel for the petitioner.
Ms P.C. Bawankule, Assistant Government Pleader for the respondents.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : NOVEMBER 25, 2025

Heard the learned counsel for the petitioner as well as the learned Assistant Government Pleader for the respondents.

2. The petitioner's challenge is to the order dated 07.11.2025 passed by the respondent no.2-District Collector, Chandrapur thereby suspending the petitioner's FL-II license for a period of twenty days.

3. In response to the petition, the learned Assistant Government Pleader has filed her affidavit-in-reply dated 24.11.2025 which is tendered across the bar and the same is taken on record.

4. Considering the urgency pointed out by the counsel for the petitioner, the matter is taken up for final disposal.

5. The petitioner is holder of FL-II license granted by the respondent no.2-Licensing Authority. The petitioner's grievance is that the respondent no.2 has suspended the petitioner's license on the basis of a report dated 11.07.2025 submitted by the Sub-Inspector, State Excise mentioning certain irregularities and the license is ordered to be suspended for a period of twenty days.

6. The counsel for the petitioner submitted that the impugned order passed by the respondent no.2 is unreasoned and without considering the reply-explanation submitted by the petitioner in response to the show cause notice. He submitted that the alleged irregularities are not committed by the petitioner and although the said irregularities are committed by the servant of the licensee, the order suspending license for twenty days is grossly disproportionate. He submitted that the respondent no.2 has not recorded independent reasons for arriving at the conclusion about breach of conditions of license by the petitioner. He therefore submitted that the impugned order is unsustainable in law.

7. The learned Assistant Government Pleader for the respondent nos.1 and 2 by relying upon the affidavit-in-reply dated 24.11.2025 submitted that the impugned order is passed by the respondent no.2 on the basis of a report submitted by the Sub-Inspector, State Excise, Chandrapur which is based on the CCTV footage of the licensed premises. She also submitted that the petition is liable to be dismissed on account of the availability of alternate remedy of filing an appeal under Section 137(2) of the Maharashtra Prohibition Act, 1949 (for short, 'the Act of 1949'). She further submitted that considering the breach of conditions of license and the earlier conduct of the petitioner on account of which the petitioner had suffered suspension of its license for a period of fifteen days, the order of suspension of license for twenty

days is not at all disproportionate. By relying upon Section 79 of the Act of 1949, she submitted that the petitioner is rightly held responsible for the acts of his servant and on all these counts, she justified the impugned order.

8. While considering the controversy involved in the instant petition, it has to be seen that the impugned order is passed by the respondent no.2 on the basis of the report of the Sub-Inspector, State Excise and his personal inspection of the premises and CCTV footage recorded on 11.07.2025. In his report, it is observed that the shop was opened around 08.40 a.m. in the morning i.e. before the opening time; secondly at around 11.20 a.m., from an Autorickshaw, liquor was brought in fifteen plastic bags each containing 100 bottles of 'Rocket' country liquor of 90 m.l., total around 1500 bottles which were kept in the godown of the licensed premises; thirdly it was seen that certain bottles were bought from outside, without license and they were tried to be sold illegally by repacking; fourthly no entries about transactions on 10th of July 2025 were recorded in the register; lastly the country liquor was being sold on wholesale basis without license.

9. Record reveals that a show cause notice dated 22.07.2025 was issued to the petitioner alleging violation of Rule 31(1)(2) of Bombay Foreign Liquor Rules, 1953, License Condition No.6 of FL-II license of the petitioner, Rules 33, 35, 42 and 43 of the Maharashtra Country Liquor Rules, 1973 and License Condition Nos.15 and 16

alongwith Rules 9(a) and 15(1) of the Maharashtra Foreign Liquor (Sale on Cash and Register) Rules, 1969. In response to the show cause notice on 30.09.2025, the partner of the petitioner appeared and submitted a reply in which the petitioner has taken a stand that the alleged illegal activities were carried out by his servant and the petitioner cannot be held responsible. After granting personal hearing, considering the show cause notice and the reply, the order dated 07.11.2025 suspending license for twenty days is passed, which is subject matter of challenge.

10. It is thus clear that the CCTV footage had recorded the malpractices allegedly committed by the servant of the petitioner. Having regard to the provisions of Section 79 of the Act of 1949, the license holder has to be held responsible for the acts committed by his servants. A perusal of the impugned order shows that the respondent no.2 has given due consideration to the relevant aspects including the reply-explanation submitted by the petitioner. Pertinent to note, the show cause notice was issued to the petitioner calling upon his explanation for violation of several Rules as referred above and he was called upon to give explanation as to why the license be not cancelled or suspended. The impugned order shows that after considering the explanation submitted by the petitioner, the respondent no.2 has recorded inferences about breach of rules and conditions of license and directed suspension of license only for a period of twenty days. Having regard to the

entire conduct of the petitioner and the breach of conditions, I am of the firm view that the suspension of license for twenty days is not at all disproportionate. Further, perusal of the impugned order shows that due consideration is given to the relevant aspects and a well reasoned order is passed. It has to be noted that the petitioner cannot claim any fundamental right to trade in liquor and in the wake of breach of conditions of license and Rules as recorded in the impugned order, the contentions canvassed by the petitioner are not at all acceptable.

11. It has also to be noted that the petitioner has not submitted any plausible explanation for not availing the alternate remedy of filing an appeal under Section 137(2) of the Act of 1949. The petition need not be entertained even on account of availability of an alternate remedy.

12. Having regard to the above mentioned factual and legal aspects, no interference in exercise of Article 227 of the Constitution of India is warranted with the impugned order. The writ petition is therefore dismissed with no order as to costs.

(PRAFULLA S. KHUBALKAR, J.)