



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

WRIT PETITION NO. 5324 OF 2024

(M/s Dolphin Restaurant & Bar, Thr. its Partner Sonam Avinash Jasiwal
Vs.
The Superintendent, State Excise, Yavatmal & Ors.)

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. S.N. Tapadia, Advocate for the Petitioner.
Mr. Sachin Narale, AGP for the Respondent Nos. 1 & 2/State.
Ms. Krutika Motdhare, Advocate h/f Mr. D.A. Dhumal, Advocate for the
Respondent No.3.

**CORAM: AVINASH G. GHAROTE AND
ABHAY J. MANTRI, JJ.**

DATED : 4th APRIL, 2025

1. Heard Mr. Tapadia, learned Counsel for the
Petitioner, Mr. Narale, learned AGP for the Respondent Nos.1
and 2/State and Ms. Motdhare, learned Counsel appearing
for the Respondent No.3.

2. The Petition questions the order dated 13.06.2024
(page 27) by which the FL-III license No. 381 which was
issued to the Petitioner for the first time on 09.11.2021, is
refused to be renewed in absence of NOC from the concerned
Gram Panchayat in terms of Rule 4 of the Maharashtra
Panchayat Extension to Scheduled Area (Prohibition and
Regulation of Licensing) Rules, 2015 (for short the “Rules of
2015”).

3. Mr. Tapadia, learned Counsel for the Petitioner, by relying upon the judgment in the case of *Pushpa Jaywant Chavan Vs. The State of Maharashtra & Ors., Writ Petition No. 9021/2022 with connected Petition, decided on 08.09.2022* (page 36) submits, that there is no such requirement for renewal of license, and therefore, the impugned order cannot be sustained.

4. Mr. Narale, learned AGP for the Respondent Nos. 1 and 2/State, supports the impugned order.

5. Ms. Motdhare, learned Counsel for the Respondent No.3, invites our attention to the provisions of Rule 4 of the Rules of 2015, to contend that the resolution of Gram Sabha, is necessary even for the purpose of renewal of a license and since in the present matter it is not there, the impugned order is correct.

6. She also relies upon the judgment of the learned Division Bench of this Court in *Ramkisan s/o Motilal Jaiswal Vs. The State of Maharashtra & Ors., Writ Petition No. 3390/2015 with connected Petitions, decided on 23.11.2016*, to contend that it has been misconstrued in *Pushpa Jaywant Chavan* (supra), and therefore, it cannot be said to have appreciated the correct position.

7. *Pushpa Jaywant Chavan* (supra), merely relies upon *Ramkisan s/o Motilal Jaiswal* (supra) to hold that clause 12 of the communication dated 17.03.2022 which directed renewal proposals for the year 2022-23 in respect of FL-III

license to be accompanied with the Gram Sabha resolution to hold that the said clause was contrary to what has been held in *Ramkisan s/o Motilal Jaiswal* (supra), and therefore, could not be sustained.

8. We, however, find that as contended by Ms. Motdhare, learned Counsel for the Respondent No.3, that what was under consideration in *Ramkisan s/o Motilal Jaiswal* (supra) was a question as to whether Rule 4 of the Rules of 2015, would be applicable to licenses which were in existence prior to coming into force of the said Rules which were submitted for renewal.

9. As rightly contended it has been held, that Rule 4 of the Rules of 2015 would be applicable to licenses granted under Rule 3 of the Rules of 2015, and therefore, insofar as licenses which were granted in earlier point of time prior to Rules of 2015 coming into effect, the requirement of a resolution in terms of Rule 4 of the Rules of 2015 would not be applicable for any application for renewal made in respect of FL-III license.

10. In the instant matter, there is no dispute that the FL-III license issued to the Petitioner on 09.11.2021 has been granted in terms of Rule 3 of the Rules of 2015, on account of which, it cannot be said, that the requirement of Rule 4 of the Rules of 2015 for the purposes of its renewal would not be attracted.

11. That being the position, we do not see any reason to interfere in the impugned decision which merely follows what Rule 4 of the Rules of 2015 mandates.

12. The Petition is therefore without any merits and is accordingly **dismissed**. No costs.

13. The resultant effect would be that any renewal which may have been granted by State contrary to the Rules of 2015 would clearly be ineffective and not implementable.

14. Pending application/s, if any, shall stand disposed of accordingly.

(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)