IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13507 OF 2026

Octaga Brewing LLP Ltd ...Petitioner

Versus

The State of Maharashtra Through Secretary ...Respondent

Mr. Mayur Khandeparkar, a/w Shubhra Swami, Ankit Tiwari and Raghav Dharmadhikari, i/b V. B. Tiwari and Co, for the Petitioner.

Mr. Y. D. Patil, AGP for the Respondent-State.

CORAM: N. J. JAMADAR, J.
DATED: 14th OCTOBER, 2026

ORAL ORDER:-

1. Heard the learned Counsel for the parties.

2. The challenge in this petition is to an order dated 10th September, 2026 passed by the Designated Officer and Assistant Commissioner (Food), whereby the licence of the petitioner's establishment came to be suspended by invoking the provisions under the Food Safety and Standards Act, 2006, and Regulation 2.1.8(4) of Food Safety and Standards (Licensing And Registration of Food Business) Regulations, 2011.

3. It appears, post the suspension order, on 15th September, 2026, the Designated Officer passed a closure order.

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4. On 18th September, 2026, the petitioner preferred an appeal before the Commissioner of Food Safety, being Appeal No.119/2026. The said appeal was initially heard on 29th September, 2026.

5. In the meanwhile, on 28th September, 2026, reverification of the petitioner's establishment was carried out. The Auto Generated Inspection Report (Exhibit-H, page 139) indicates that the petitioner has obtained 34 out of 34 marks, and the score of compliance was 100%.

6. In that backdrop, the petitioner has preferred this petition seeking direction to quash and set aside the suspension order dated 10th September, 2026 and closure order dated 15th September 2026.

7. On 9th October, 2026, this Court was informed that the appeal was listed for order on 13th October, 2026.

8. Today, the learned AGP, on instructions, submits that, though the appeal was heard, the appellate authority would require at least one week's time to pass an order.

9. Mr. Khandeparkar submits that, once 100% compliance is reported, which, in accordance with the Revised Food Safety Inspection Check List and Marking and Grading system, is

graded "A-plus and compliance-exemplar", there is no propriety in continuing with the suspension order. This Court has, in a series of orders, deprecated the practice of continuing the suspension order despite the concerned establishment having complied with all the food standard and saftety norms. Mr. Khandeparker, invites attention of the Court to the orders passed by the Division Benches of this Court in the cases of ***M/s. Pind Punjab vs. Union of India***[1]***, Hotel Pawan Bar and Restaurant vs. State of Maharashtra***[2], and ***Hotel Alankar vs. State of Maharashtra***[3].

10. In the case of ***M/s. Pind Punjab*** (supra) the Division Bench of this Court has observed, *inter alia,* as under:

> "5. In fact, after the report was generated on 8th July, 2026, the concerned officer, Mr. N.R. Sarkate, should have issued a consequential order restoring the license. He probably has not done so because the Appeal was pending.
>
> 6. Proceedings initiated vide the Appeal, need not be taken forward since the Petitioner has cured all the deficiencies and he has been granted 100% compliance report."

11. In the case of ***Hotel Pawan Bar and Restaurant*** (supra), reiterating the aforesaid proposition, the Division Bench, while the appeal awaited adjudication before the Appellate Authority,

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1 WP/8360/2026 dated 16th July, 2026.

2 WP/9891/2026, dated 3rd August, 2026.

3 WP/3806/2026, dated 8th September, 2026.

revoked the suspension orders and restored all the suspended licences.

12. In the case of ***Hotel Alankar*** (supra) another Division Bench of this Court has exposited the object of suspension of licence and the impropriety of continuing the suspension even after reporting exemplar compliance. The observations in paragraph 30 read as under:

> "30. The object of suspension of license as mandated by the proviso to Sub-section (3) of Section 32 of the Food Safety Act is to protect the public health. The suspension of license for non compliances, which have the propensity to harm public health, cannot be continued infinitely. The consequence of compliance of the deficiencies should, in our view, result in revocation of the suspension of license and continued monitoring as mandated by law to ensure statutory compliances. The establishment cannot be put under suspension even after obtaining "exemplar" compliance. The suspension order has been continued by appellate authority on grounds which are unsustainable in so far as harm to public health is concerned."

13. In the case at hand, the reverification report indicates that the petitioner's establishment has secured 100% marks and the final score of compliance was 100%. The said reverification report was generated on 28th September, 2026. Thus, it would have been in the fitness of things for the respondents to pass an order of revocation of suspension on 28th September, 2026 itself.

14. Once full compliance has been reported, the authorities cannot keep the food business establishment's licence

suspended on the premise that the appeal is pending. If the hearing and adjudication of the appeal takes a longer time, in the context of time-sensitiveness of the matter, as has happened in the facts at hand, the concerned establishment would suffer unwarratned loss. Since the object of suspension is achieved with 100% compliance and threat to public health is ruled out, the continuation of the suspension would be wholly unsustainable.

15. In the aforesaid view of the matter, though the appeal preferred by the Petitioner awaits adjudication, this Court is inclined to allow the petition by suspending the orders of suspension and closure till the final decision of the appeal and, for a further period of one week thereafter, in the event an adverse order is passed against the Petitioner in the said appeal.

16. Hence, the following order:

(i) The Petition stands party allowed.

(ii) The order of suspension dated 10th September 2026 and the order of closure dated 15th September 2026 stand suspended till the final decision of the appeal being Appeal No. 119 of 2026, by the appellate authority.

(iii) All the licences of the Petitioner stand restored.

(iv) In the event an order adverse to the interest of the Petitioner is passed in the said appeal, the aforesaid suspension of order of suspension and order of closure shall continue to operate for a further period of one week from the date of communication of the final order to the Petitioner.

Petition stands disposed.

[N. J. JAMADAR, J.]