

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL WRIT PETITION NO. 5640 OF 2024

1. Shri. Tilok G. Lalwani
Age : 48 years, Occupation : Business,
R/o. Sant Kawaram Nagar,
Pimpri, Near Vaibhav Nagar,
Pune – 411 017.

2. Sau. Anjali Arvind Aswani
Age : 36 years, Occupation : Business
R/o. Ganesham C.H.S., A-Wing,
Flat No.604, Pimple Saudagar,
Pune – 411 027.

... Petitioners

Versus

1. The State of Maharashtra
Through its Principal Secretary,
State Excise Department,
Mantralaya, Mumbai – 400 032.

2. The Collector,
State Excise Department, Pune,
Having Office at Pune.

3. The Superintendent,
State Excise Department, Pune.

4. The Inspector,
State Excise Department,
“E” Division, Pune.

... Respondents

Ms. Veena Thadhani a/w. Ms. Rutuja Gaikwad for the Petitioners.
Ms. Shruti Vyas, Addl.G.P. a/w. Ms. Reena Salunkhe, AGP for the
Respondent – State.

CORAM: SUMAN SHYAM &
SHYAM C. CHANDAK, JJ.
RESERVED ON : 01st APRIL, 2026
PRONOUNCED ON : 29th APRIL, 2026

JUDGMENT : (PER : SHYAM C. CHANDAK, J.)

1. Present Petition has been filed seeking a direction from this Court upon the Respondent Nos.3 and 4 to issue a *Challan* to the Petitioners for payment of fees of Rs.20,21,270/- towards transfer of Petitioner No.1's liquor shop licence in favour of Petitioner No.2, in terms of the Order dated 14.06.2021 passed by Respondent No.2. Additionally, it is prayed to quash and set-aside the Order dated 06.05.2024 passed by Respondent No.2 thereby demanding an amended licence transfer fee Rs.45,00,000/- instead of earlier fee Rs.20,21,270/-.

2. Heard Ms. Thadhani, learned counsel for the Petitioners and Ms. Vyas, learned Addl.G.P. for the Respondent – State.

3. Rule. Rule is made returnable forthwith. Heard finally with consent of the parties.

4. Respondent Nos.2 to 4 have filed Affidavit-in-reply and opposed the Petition. Petitioners have also filed rejoinder dated 05/08/2024.

5. Ms.Thadhani, the learned counsel for Petitioners has submitted that, Petitioner No.1 is the holder of liquor shop license, *i.e.*, C.L.-III No.145 (“**the liquor license**”) and he has been running a liquor business at Shop No.1, Vishal Nagar, Pimple Nilakh, Tal.

Haveli, Dist. Pune. Petitioner No.1 filed an Application dated 08.01.2021 with Respondent No.2 invoking provisions of Maharashtra Country Liquor Rules, 1973 and The Bombay Prohibition (Privilege Fees) Rules, 1954 and prayed to transfer his liquor license in the name of Petitioner No.2. Said Application was allowed by Respondent No.2 *vide* Order dated 14.06.2021 subject to payment of requisite fees of Rs.20,21,270/-.

6. Ms. Thadhani submitted that, as required by the Order dated 14.06.2021, Petitioner No.1 had to get the necessary *Challan* Form for payment of the demanded fees. Petitioner No.1, therefore, pursued the matter with the Area Inspector, State Excise Department, Pune for issuance of the *Challan*. The Petitioner even visited the office of Respondent No.2 for the said purpose. However, the *Challan* was not issued. Therefore, Petitioner No.1 filed various Representations with Respondent Nos.3 and 4 for issuance of the *Challan*. Still the *Challan* was not issued for the payment of the fees Rs.20,21,270/-. The dates on which the Representations were filed, are as under :-

01/08/2021	03/06/2022	14/06/2022	24/06/2022
21/03/2023	06/04/2023	14/04/2023	17/04/2023
26/05/2023	30/05/2023	26/12/2023	04/01/2024
08/01/2024	12/02/2024	04/03/2024	

7. Ms. Thadhani submitted that, thus, the inaction on the part of the Respondents made it impossible for the Petitioners to comply with the Order dated 14.06.2021 on time. Yet, Respondent No.2 passed a fresh Order dated 06.05.2024 and increased the

license transfer fees to Rs.45,00,000/-. Ms. Thadhani urged that, since Petitioners were not responsible for non-issuance of the *Challan*, hence, they cannot be directed to pay the increased fees Rs.45,00,000/-. She has submitted that the Order dated 06.05.2024 is nothing but a review of the Order dated 14.06.2021. Such a review is not permissible in law. Moreover, said Order was passed in violation of the principles of natural justice and just to harass the Petitioners. Therefore, the Order dated 06.05.2024 is arbitrary and not sustainable in law.

8. In reply, Ms.Vyas, the learned Addl.G.P for the Respondents submitted that, admittedly, the Petitioners were required to deposit the fees of Rs.20,21,270/- as directed in the Order dated 14.06.2021. Until such fees is deposited, the process of transfer of the license is incomplete. Without any valid reason, the Petitioners had failed to deposit the fees. In the meantime, the Government Notification dated 31.05.2022 was issued and the license transfer fees was increased from Rs.20,21,270/- to Rs.45,00,000/-.

9. Ms. Vyas has further submitted that, even though the Petitioners have claimed to have filed 17 representations, the Respondents have not received the representations dated 01.08.2021, 03.06.2022, 14.06.2022, 24.06.2022, 06.04.2023, 14.04.2023 and 30.05.2023, as the same do not bear any acknowledgment of receipt.

10. Ms.Vyas has also submitted that, up-to the year 2011, the fees for renewal and transfer of such license was paid offline in the Bank with the help of *Challan* issued by the officials from the Excise Department. Thereafter, “*Government Receipt Accounting*

System” (GRAS) was introduced as an online mode for payment of the revenue to the Government. Since then, the practice to pay/deposit such fees by way of *Challan* was stopped. Therefore, question of demanding physical *Challan* did not arise.

11. Ms. Vyas has emphatically submitted that, the Petitioners were well aware of the GRAS which permits online payment. Nevertheless, they did not deposit the requisite license transfer fees showing complete diligence. Instead, they kept filing representations for issuance of the *Challan* only to extend the time for payment, which was not permissible. Therefore, there is no merit in the Petition.

12. We have considered these submissions. It is an admitted fact that till filing of the Petition, the Petitioners had not deposited the original or the increased fees for transfer of the liquor license. Such a fee is charged by the Government for providing the necessary services related to the license.

13. *Vide* Notification dated 31.05.2022, the State Government in exercise of the powers vested under the proviso to section 143(3) of the Maharashtra Prohibition Act, 1949 has amended the Bombay Prohibition (Privilege fees) Rules, 1954 and thereby sub rule (b) of Rule 5 of the said Rules, 1954 has been substituted as (b)(i) and (b)(ii), wherein the fees payable by any licensee for the privilege of transfer of his license in the form CL-III granted under the Maharashtra Country Liquor Rules, 1973 and license in form FL-II under the Bombay Foreign Liquor Rules 1953 has been prescribed as Rs.45 lakhs per transfer and Rs.1 crore per transfer respectively. The said Notification has been brought into force with

immediate effect from 31.05.2022. Accordingly, from that day, recovery of the privilege fees with enhanced rate had become applicable throughout the State.

14. During hearing of the Petition, upon a query by this Court, the learned counsel for the parties and Mr. Manoj Chavhan, Deputy Superintendent, the representative of Respondent Nos.3 and 4 informed that the subject license was required to be renewed annually. Up-to year 2011, fees for such renewal was paid offline. However, since introduction of the GRAS, the renewal fees is being paid and accepted only online through the GRAS. Ms. Thadhani has conceded that, till date, the liquor license held by Petitioner No.1 has been renewed from time to time by paying the license renewal fees online. Ms. Vyas submitted that same mode was required to be availed by the Petitioners for payment of the license fees of Rs.20,21,270/- as well. Ms. Thadhani, did not controvert this submission made by Ms.Vyas. In view thereof, it is safe to conclude that the Petitioners were aware of the GRAS. Therefore, they could have paid the license transfer fees Rs.20,21,270/- much before it was increased. However, Ms. Thadhani has failed to explain as to why the Petitioners could not avail the GRAS for payment of the requisite fees and instead insisted for the physical *Challan*.

15. According to Ms.Thadhani, in all 17 (seventeen) representations were filed by the Petitioner/s. However, all the representations were not received by the Respondents. In fact, the Respondents had received only 10 (ten) representations.

16. Record indicates that after passing of the Order dated 14.06.2021, the first representation was filed on 01.08.2021. The Notification dated 31.05.2022 came to be published and implemented with immediate effect. Notwithstanding the same, the Petitioners continued with filing of their representations. The Petitioners took almost two years time to file this Petition. Finally, the Petition was filed on 05.04.2024.

17. In view of the above discussion, the conclusion is inevitable that since beginning, the Petitioners wanted to avoid the payment of the license transfer fees. Therefore, they kept on filing the representations only to buy time.

18. Be that as it may, identical controversy had come up before this Court in case of *Sau. Anjali Arvind Aswani & Anr. v. State of Maharashtra and Others* in Civil Writ Petition No. 6445/2024, cited by Ms. Thadhani. In that context, the Division Bench referred to the provisions of Rule 5 of the Bombay Prohibition (Privileges Fees) Rules, 1954 as it stood before and post amendment. Additionally, reference was made to Section 114 (1) of the Bombay Prohibition Act which reads :-

"114. Recovery of duties, etc.- (1) *All duties, taxes, fines (except fines imposed by a Court) and fees leviable under any of the provisions of this Act or in respect of any licence, permit, pass or authorization granted under it and the cost of the supervising staff appointed under section 58A [if not paid within the due date or the prescribed period, shall be recovered from any person liable to pay the same or from his surety, if any, with simple interest at*

the rate of 2 per cent. per month, from the date it has become due, as if they were arrears of land revenue. ”

19. After considering the facts of the case, the relevant provisions of law and earlier decisions in the field, in paragraph 19 the Division Bench has observed that, present is not a case where application for transfer of the license was made after coming into force of the amendment of Rule 5 on 31.05.2022 but this is a case where the application for transfer was already made prior to coming into force of the amendment. The transfer fees were paid by the Petitioners post coming into force the amendment of 31.05.2022. In paragraph 20, the Division Bench has observed and held that :

“20. What we find is that by virtue of the amendment, fees for the transfer of license has been enhanced from the date of the amendment. There is nothing in the amendment which indicates that such a provision has retrospective operation affecting applications where transfer has been ordered but the fees remain to be paid. In the absence of such indication in the Rules, the Rule will have a prospective application. As indicated earlier, present is a case where not only the application for transfer was made prior to the date of the amendment coming into force but even the Collector had passed an order permitting such transfer on payment of privilege fees prior to coming into force of the amendment. The amended Rules do not provide any consequence as to what is the effect of such amendment on those applications which have already been decided permitting transfer of

license on payment of privilege fees on the basis of Rules which were in force on the date when the application was considered. In such circumstances, the only consequence that can arise in the event the Petitioner pays the privilege fees belatedly would be payment of interest in terms of Section 114 (1) of the Bombay Prohibition Act.”

20. In the wake of the above, the Division Bench held that the impugned Order passed by the Collector after coming into force of amendment, virtually amounts to review of his earlier Order which is impermissible because the Original Application seeking transfer of the license was not pending on the date of the impugned Order which was obviously passed after the amendment came into force. Hence, the Petition was partly allowed. The impugned Order was accordingly set-aside but with a direction to the Petitioners to pay the license transfer fees Rs.20,21,270/- with interest as provided by Section 114 of the Bombay Prohibition Act.

21. The case of *Sau. Anjali Arvind Aswani* (supra) and the case in hand relates to the same office of the Collector, State Excise Department, Pune and the issue is also identical. Therefore, the decision of *Sau. Anjali Arvind Aswani* (supra) will be binding on this Court.

22. In view of the above, the impugned Order dated 06.05.2024 passed by Respondent No.2 thereby demanding an amended licence transfer fees Rs.45,00,000/- instead of earlier fees Rs.20,21,270/-, is liable to be quashed and set aside. However, for causing delay in payment of the demanded fees of Rs.20,21,270/-, the Petitioners are liable to pay the interest as provided in said

Section 114 (1) of the Bombay Prohibition Act. Thus, the Petition partly succeeds. Hence, following Order is passed:

22.1 Petition is partly allowed.

22.2 The impugned Order dated 06.05.2024 passed by Respondent No.2 thereby demanding an amended license transfer fees Rs.45,00,000/- instead of earlier fee Rs.20,21,270/-, is hereby quashed and set aside.

22.3 Instead, Petitioners shall pay a sum of Rs.20,21,270/- towards transfer of Petitioner No.1's liquor shop license in favour of Petitioner No.2, in terms of the Order dated 14.06.2021 passed by Respondent No.2, alongwith interest, as stipulated in Section 114 of the Bombay Prohibition Act. The interest shall be payable from the original date of demand when the fees Rs.20,21,270/- had become due till realization of the amount.

23. In view of the above observations, Writ Petition stands disposed of.

(SHYAM C. CHANDAK, J.)

(SUMAN SHYAM, J.)

PREETI
HEERO
JAYANI

Digitally signed by
PREETI HEERO
JAYANI
Date: 2026.04.30
17:13:56 +0530