

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 419 OF 2026

Heramb Anandrao Shelke And Anr. ...Petitioners

Versus

State Of Maharashtra Through its
Additional Chief Secretary and Ors. ...Respondents

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SUBHASH
KULKARNI

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Mr. Pralhad Paranjape, a/w Manish Kelkar, Chinmay Patil and
Seoul Shah, for the Petitioners.
Mr. A. C. Bhadang, AGP for the State.

CORAM: N. J. JAMADAR, J.
DATED: 9th JANUARY, 2026

Oral Order:-

1. Heard the learned Counsel for the parties.
2. The challenge in this petition is to an order dated 1st January, 2026 passed under Section 54(1)(c) of the Maharashtra Prohibition Act, 1949, whereby the FL-III Licence to serve the foreign liquor at M/s. Hotel 2BHK has been suspended for a period of 15 days.
3. It is the principal grievance of the petitioner that the show cause notice was served upon the petitioner on 6th January, 2026, though the show cause notice appeared to have been prepared on 25th August, 2025 and digitally signed on 10th October, 2025. The show cause notice refers to three alleged

breaches and infringements of conditions of licence, namely, petitioner has served liquor on 15th August, 2025, which was a dry day, there were no entries in FLR-3A register for 41 days after 3rd July, 2025, and the FL-III Licence was being operated in the premises by carrying out alteration in breach of the sanctioned plan.

4. Mr. Bhadang, the learned AGP, countered the submissions on behalf of the petitioner. Mr. Bhadang, on instructions, submitted that the show cause notice was, in fact, served on the petitioner on 3rd January, 2025 through WhatsApp.

5. The inspection was purportedly carried out on 15th August, 2025. The show cause notice was evidently prepared in the month of August, 2025. On the own showing of the respondents, the show cause notice was purportedly served on the petitioner on 3rd November, 2025, that too through WhatsApp. In contrast, the copy of the show cause notice (Exhibit-F) to the petition indicates that the show cause notice was digitally signed on 10th October, 2025, though it was prepared on 25th August, 2025. Secondly, it contains an endorsement to the effect that it was received on 6th January, 2026. As there is no proper report of the service of show cause notice dated 25th August, 2025 and the respondents contend

that the show cause notice was served through WhatsApp on 3rd November, 2025, *prima facie* the Court finds that the exact date of the service of the show cause notice on the petitioner appears to be debatable.

6. A prior show cause notice granting a reasonable opportunity of being heard is an indispensable element of the administrative decision-making and assumes critical significance in decisions which entail civil consequences, like the cancellation of licence to run an establishment. Failure to serve a show cause notice providing an effective opportunity of hearing is fatal to the ultimate order that may be passed by the Authorities.

7. The essential elements of a show cause notice were spelled out by the Supreme Court in the case of *Gorkha Security Services vs. Government (NCT of Delhi) and others*¹ in the following terms:

“21. The Central issue, however, pertains to the requirement of stating the action which is proposed to be taken. The fundamental purpose behind the serving of show-cause notice is to make the noticee understand the precise case set up against him which he has to meet. This would require the statement of imputations detailing out the alleged breaches and defaults he has committed, so that he gets an opportunity to rebut the same. Another requirement, according to us, is the nature of action which is proposed to be taken for such a breach. That should also be stated so that the noticee is able to point out that proposed action is

1 (2014) 9 SCC 105.

not warranted in the given case, even if the defaults/ breaches complained of are not satisfactorily explained. When it comes to blacklisting, this requirement becomes all the more imperative, having regard to the fact that it is harshest possible action.”

8. It is true, a remedy of statutory appeal against the order under the provisions of Section 137(2) of the Maharashtra Prohibition Act, 1949 is available to the petitioner. However having regard to the nature of the impugned order of suspension of FL-III Licence for the period of 15 days, the statutory remedy of appeal would be rendered infructuous if the effect, operation and implementation of the impugned order is not stayed.

9. Mr. Paranjape, the learned Counsel for the petitioner, submits that, pursuant to the impugned order the Authorities have sealed the premises of the petitioner, yesterday.

10. In these circumstances, the Court considers it appropriate to provide an opportunity to the petitioner to approach the Appellate Authority and, in the meanwhile, stay the execution, operation and implementation of the impugned order.

11. The petition, thus, stands disposed with liberty to the petitioner to approach the Appellate Authority.

12. In the event, the appeal is filed by the petitioner against the impugned order, within a period of one week, the Appellate Authority is requested to hear and decide the appeal as expeditiously as possible and, preferably, within a period of one month from the date of the filing of the appeal, without being influenced by the observations in this order.

13. In the meanwhile, the execution and operation of the impugned order shall remain stayed.

14. The respondent Nos.3, 4 and 5 are also directed to de-seal the subject premises forthwith.

15. The petition stands disposed.

[N. J. JAMADAR, J.]