



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

MISC. CIVIL APPLICATION (REVIEW) NO.817 OF 2025
IN
WRIT PETITION NO.5579 OF 2025 (D)

APPLICANTS

Original
Petitioners

- 1) Lalita W/o. Ramesh Jaiswal, Aged about 28 years, Occupation – Business,
- 2) Shruti W/o. Rakesh Jaiswal, Aged about 28 years, Occupation – Business

Both R/o. Jaiswal Country Liquor Bar, Mouza
Wadgaon, Jamb Road, Yavatmal

...VERSUS...

RESPONDENTS

Original
Respondents

- 1) The State of Maharashtra, Department of Home & Excise through Secretary, Mantralaya, Mumbai
- 2) The Commissioner, State Excise, State Excise Bhavan, Fort, Mumbai
- 3) The Collector, District Yavatmal
- 4) The Superintendent, State Excise Yavatmal
- 5) Sangitatai Pavar, For Darubandi and Vyasani Mukti Andolan, Shaha Complex, Shyam Talkies, Yavatmal
- 6) Umesh Meshram, For Darubandi and Vyasani Mukti Andolan, Shaha Complex, Shyam Talkies, Yavatmal

Mr. A.A. Naik, Senior Counsel i/b. Mr. A.S. Dabadghao, Advocate for Applicants/Petitioners.
Mr. D.V. Chavhan, Senior Counsel, Government Pleader a/b. Ms. PT. Joshi, AGP for
Respondent Nos.1 to 4/State.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : 06/05/2026

ORAL JUDGMENT :

1. Heard learned Senior Counsel for the applicants as well as learned AGP for respondent Nos.1 to 4. Nobody appears for respondent Nos.5 and 6, although served.

2. This is an application for review of the judgment dated 17.10.2025 passed in Writ Petition No.5579/2025. In the said writ petition, the applicants/petitioners had challenged the order dated 09.09.2025 passed by the Collector, District Yavatmal i.e. respondent No.3, under Section 142(1) of the Bombay Prohibition Act, 1949 (for short “the Act”), thereby, directing the applicants/petitioners to close their business till their license was shifted to other premises. The applicants herein were running a CL-III license and by considering the complaints/representations made by the residents of the locality, the respondent No.3-Collector, District Yavatmal had passed the order under Section 142(1) of the Act, directing that the business of the petitioners be stopped till the license is transferred to some other location.

3. This Court had decided the said writ petition by considering the position of law laid down by this Court with respect to powers under Section 142 of the Act, being based on subjective

satisfaction. The contentions canvassed on behalf of the applicants/petitioners alleging non compliance with The Bombay Prohibition (Closure of licence on Resolution by Gram Sabha or representation by Voters in the Ward of Municipal Council/Corporation) Order, 2008, about failure to submit representation by not less than 05 percent women voters' were also considered.

4. The contentions canvassed by both the parties on the issues raised in the writ petition were considered and the writ petition was finally decided by judgment dated 17.10.2025.

5. Learned counsel for the applicants primarily submitted that the writ petition came to be decided without considering the judgment of the Hon'ble Division Bench of this Court in the matter of *S.K. Restaurant and Bar, Nagpur Vs. State of Maharashtra and Another* reported in *2023 SCC OnLine Bom 3039* which directly deals with the controversy in question. By pointing out the position of law laid down by the Hon'ble Division Bench, in the said judgment while deciding an identical case about closure of license till the date of shifting, he submitted that the Division Bench observed that the Competent Authorities cannot invoke powers under Section 142 of the Act, to direct the closure of license till it is shifted. Thus, it is submitted that the

controversy involved in the writ petition was required to be decided by considering this judgment of the Hon'ble Division Bench. By inviting my attention to the observations recorded in para No.15 of the said judgment, he submitted that the provisions of Section 142 of the Act, does not empower the District Collector to order shifting of the license or permanent closure of the license, till the license is shifted and therefore, in view of this, the challenge to the order passed by the Collector, needs to be reconsidered.

6. Learned Government Pleader opposed the application and submitted that the contentions canvassed on behalf of both the parties were considered by this Court, while deciding the controversy. The petition was decided by observing that the Authority had exercised powers under Section 142 of the Act, in its wisdom and on the basis of the case laws relied upon by the parties, the writ petition was decided finally by judgment dated 17.10.2025. However, as regards the position of law laid down by the Hon'ble Division Bench in the aforesaid judgment, he fairly submitted that the issues raised were identical and the legal position as dealt with and clarified could be applied.

7. As regards the powers of review, the learned counsel for the applicants relied on the judgment of the Hon'ble Supreme Court in

the matter of *Yashwant Sinha and Others Vs. Central Bureau of Investigation, through its Director and Another* reported in (2020) 2 *Supreme Court Cases 338* and the judgment of three judges bench of the Hon'ble Supreme Court in the matter of *Confederation of Real Estate Developers of India (CREDAI) Vs. Vanashakti and Another* reported in *2025 SCC OnLine SC 2474*. He submitted that the powers of review are required to be exercised since, the judgment of the Hon'ble Division Bench, which directly covers the controversy was not pointed out by any of the parties at the relevant time. He further submitted that since, the attention of this Court was not invited to the legal position governing the situation, the judgment passed in the writ petition needs to be recalled so that the controversy can be decided by considering the said legal position, in the interest of justice.

8. In view of the position of law laid down by the Hon'ble Division Bench in the aforesaid judgment of *S.K. Restaurant's case (supra)*, it appears that the controversy raised in the writ petition needs to be decided by considering the said judgment. Pertinent to note, neither the learned counsel for applicants/petitioners nor the respondents had pointed out the legal position as laid down by the Hon'ble Division Bench in the aforesaid judgment and as such, the writ

petition came to be decided without having benefit of the aforesaid legal position.

9. In view of the above controversy involved, the writ petition is required to be considered afresh and therefore, it has become necessary, in the interest of justice and to prevent miscarriage of justice, to recall the judgment dated 17.10.2025 passed in the Writ Petition No.5579 of 2025. Hence, I pass the following Order :-

ORDER

(i) The Misc. Civil Application is **partly allowed**.

(ii) The judgment dated 17.10.2025 passed by this Court in Writ Petition No.5579 of 2025, is recalled and it is directed that the writ petition be listed for admission afresh.

10. Accordingly, the misc. civil application is **partly allowed** and **disposed of**. No order as to costs.

(**PRAFULLA S. KHUBALKAR, J.**)

Privel