



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

WRIT PETITION NO.8449 OF 2025

PETITIONER :- Venkatesh S/o Agayya Balsaniwar,
aged about 52 years, Occ.: Business,
partner of M.V.K. Country Loquior
Shop. R/o. Gadchandur, Tq. Korpana,
District Chandrapur.

..VERSUS..

RESPONDENTS :- 1) State of Maharashtra Through its
Secretary, State Excise Department,
Mantralaya, Mumbai-32.
2) Collector, Chandrapur.
3) Municipal Council, Gadchandur,
Through its Chief Officer,
Tah. Korpana, Dist.-Chandrapur.
4) Superintendent of State Excise,
Chandrapur, Dist.-Chandrapur.

Mr. Abhay Sambre, Advocate for petitioner.

Mr. H. D. Dubey, AGP for the Respondent No.1, 2 and 4/State.

CORAM : **ROHIT W. JOSHI, J.**

DATE : **16.01.2026**

ORAL JUDGMENT :

1) **RULE.** Rule made returnable forthwith. Heard
finally with consent of learned Advocates for the respective
parties.

2) The present petition takes exception to order dated 19.12.2025 passed by the Collector, Chandrapur, purportedly in exercise of powers under Section 308 of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1956, by which the No Objection Certificate and Commercial Use Certificate issued by Municipal Council, Gadchandur in favour of the petitioner came to be revoked, with directions to the Chief Officer of the Municipal Council to take fresh decision on the application made by the petitioner for grant of No Objection Certificate and Commercial Use Certificate.

3) According to the learned Advocate for the petitioner, the petitioner had made an application for commercial use of a residential-cum-commercial building and No Objection Certificate for shifting of country liquor shop to the premises in question and that the Municipal Council had granted No Objection Certificate for shifting of country liquor licence shop and also for commercial use of the premises. He further contends that vide the impugned order dated 19.12.2025, the No Objection Certificate and Commercial Use

Certificate have been revoked without issuance of notice or affording opportunity without hearing to him. He further contends that the order is also without jurisdiction, since it is beyond the scope of Section 308 of the Act, under which it is purportedly pass.

4) Mr. Dubey, learned AGP appearing for respondent Nos.1, 2 and 4, raises a preliminary objection that the order can be assailed by the petitioner by filing a revision under Section 318 of the Act. He argues that the petition should not be entertained in view of the alternate remedy. As regards merits of the matter, he contends that the order clearly indicates that the No Objection Certificate and Commercial Use Certificate have been obtained clandestinely, inasmuch as the said documents do not indicate outward number under which the same have been issued.

5) As regards the preliminary objection, the same is liable to be rejected for two reasons, first of all, the impugned order is passed without issuing notice and affording opportunity of hearing to the petitioner and also on the ground that it is passed without jurisdiction.

6) Perusal of Section 308 of the Act will demonstrate that in case, a Council or any Committee of the Council passes a resolution contrary to the provisions of the Act or any other law, rules, by-laws or directions issued by the Government, the Chief Officer is required to forward it to the Collector for suspension of its execution and for passing appropriate orders prohibiting the Municipal Council or the Committee from acting on the same. The Chief Officer is required to send such resolution to the Collector within a period of 3 days from the date on which the resolution is received by him. It is, thus, clear that jurisdiction under Section 308 can be invoked only as against a resolution passed by a Council or its Committee and that too when the same is forwarded by the Chief Officer of the Municipal Council to the Collector. It is apparent from reading of the provision that the No Objection Certificate and Commercial Use Certificate issued in favour of the petitioner could not be revoked under the said provision. Apart from this the order is also not passed after notice or affording opportunity of hearing to the petitioner. The fact that the impugned order is

passed without notice and hearing to the petitioner and also without jurisdiction is also a good enough reason for allowing the petition on merits. The impugned order is clearly unsustainable and is liable to be quashed and set aside. The petition is, therefore, **allowed** by quashing and setting aside the order dated 19.12.2025 bearing Order No.कार्या-१०/नपप्र/कार्या-५/२०२५/२५२, passed by the Collector, Chandrapur.

7) It will be open for the appropriate authority to take adverse action against the petitioner, in accordance with law, with respect to the aforesaid certificates, if it deems fit to do so. Needless to mention that any such action will be taken strictly in accordance with law and by following principles of natural justice.

Rule is made absolute in above terms with no order as to costs.

(ROHIT W. JOSHI, J.)

Tanmay...