

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4414 OF 2007

M/s. Wine Nook (Dealers) Private Limited ... Petitioner
Versus
The Collector of Mumbai (MSD) and anr. ... Respondents

Ms. Veena Thadhani a/w Ms. Rutuja Gaikwad for Petitioner.
Ms. Sulbha Chipade, AGP for Respondent-State.

CORAM : M.M. SATHAYE, J.

DATE : 14 OCTOBER, 2026

P.C. :

1. Heard learned Counsel for the parties. Perused the record.
2. The Petitioner, a private limited company running a wine shop, has taken exception to the order dated 21.03.2006 passed by the Collector, Mumbai (Mumbai Suburban District), by which the Petitioner was charged 50% privilege fee, amounting to Rs.1,81,500/-, for the deletion of name of a director from FL-II liquor licence.
3. Learned Counsel for the Petitioner submitted that the Petitioner is a private limited company and Bombay Prohibition (Privileges Fees) Rules, 1954, provide for 50% privilege fee to be charged in case of the admission or withdrawal of a partner and not a director. She submitted that Rule 6 thereof has been incorrectly applied. She submitted that the Application dated 18.02.2005 filed by the

Petitioner was for the deletion of name of one of the directors of the Petitioner/Company who had resigned and the Application was duly signed by the continuing directors; therefore, this was not a case of the admission or withdrawal of a partner. She relied upon the Judgment of this Court in ***India International Co. Pvt. Ltd Vs. The State of Maharashtra and ors (Writ Petition No.518 of 2001 dated 13.12.2005)*** in support of her case.

4. On the other hand, learned AGP supported the impugned order contending *inter alia* that the Petitioner had bypassed two stages of challenge provided under the Maharashtra Prohibition Act, 1949 (for short 'the said Act'), in as much as, the impugned order was appealable initially before the Commissioner of State Excise under Section 137 of the said Act and thereafter, a Revision would lie before the State Government under Section 138 of the said Act. She submitted that no indulgence be shown to the Petitioner, as the alternative statutory remedy has not been availed of. She further contended that, pursuant to the order of this Court dated 30.08.2007, the Respondent-State had deposited an amount of Rs.1,81,500/- on 28.11.2007 which has remained invested in the Court, but since no efforts were made by the Petitioner to circulate and argue the matter finally, the Petitioner should not be permitted to withdraw the interest accrued over a period of time.

5. I have considered the rival submissions and perused the record.

6. First of all, it is important to note that, on 30.08.2007 after hearing learned Counsel for the parties (including the State), this

Court had already admitted the Petition observing that the case was directly covered by the decision of this Court in ***India International Co. Pvt. Ltd (Supra)***. Also, interim relief was granted directing the Respondent/State to deposit the amount in this Court. Since the petition has already been admitted long ago (about 19 years ago) and there is nothing to indicate that the aspect of maintainability or availability of alternate remedy is kept open, it is not proper to drive the parties, after such a long time, to the concerned Authority for decision on dispute. In that view of the matter, the petition is being considered on merits.

7. It is not disputed that the Petitioner is a private limited company. In the application for deletion of the name of the resigned director, it was clearly stated that the resigned director's name was sought to be deleted. Necessary documents such as the resignation letter, resolution of the Company, NOC of the resigned director and other relevant documents, were submitted. Record further shows that, on 02.05.2005, provisions of Rule 8 of the said Rules were rightly invoked, and a fixed amount of Rs.10 was charged. However, thereafter, the impugned order was passed levying 50% privilege fee by treating the resigned director as a partner.

8. In ***India International Co. Pvt. Ltd*** (Supra), this Court considered identical situation and Rules 5 and 6 were considered vis-a-vis Rule 8. This Court clearly observed in paragraph 5 that Rule 6 does not mention the business of a Company and therefore, it would not be legal and proper to apply the said rule to the business of a company. This Court has held that if the Legislature intended to make

Rule 6 to include the business of the Company then there was no difficulty to mention the word 'Company' along with partnership business. It was therefore held that Rule 6 does not cover a request made by a Company.

9. The said Judgment was already considered by this Court at the time of admission. It is directly supporting the Petitioner's case.

10. So far as the argument of learned AGP for Respondent – State that 'Petitioner should not be permitted to withdraw the interest' is concerned, it is important to note that the deposit of amount was pursuant to the order this Court and there is nothing to indicate that the Petitioner is responsible for long pendency of the Petition. In that view of the matter, the deposited amount along with accrued interest, should follow the cause and should be given to the succeeding party.

11. In the aforesaid facts and circumstances and for the reasons indicated above, the Petition deserves to be allowed. Accordingly, impugned order dated 21.3.2006 passed by the Collector (MSD), Mumbai imposing 50% privilege fee upon the Petitioner, is set aside. The Petitioner is at liberty to withdraw the amount deposited by the Respondent-State, along with the accrued interest, if any.

12. **The Writ Petition is disposed of in the above terms.** No order as to costs. All concerned to act on duly authenticated or digitally signed QR verifiable copy of this order.

(M.M. SATHAYE, J.)