

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9342 OF 2014

Indian Hotel and Restaurant Association
(AHAR)

Versus

The Collector of Mumbai (City) & Ors.

....Petitioner.

....Respondents.

Mrs. Veena Thadani, advocate for the petitioner.
Ms. Neha Bhide, AGP 'B' Panel for State.

CORAM : RANJIT MORE, J.

DATED : October 10, 2014.

P.C.:

This petition has been filed by the Maharashtra Wine Merchants' Association challenging the orders dated 30.9.2014 and 24.9.2014 passed by the Collector, Mumbai City, and Collector, Mumbai Suburbs respectively whereby it is directed that all country liquor retail shops, foreign liquor retail shops, permit room licences, beer bar, wine bar, club licenses, temporary club licenses, beer bar licences and toddy licences shall remain close from 6 p.m. on 13.10.2014 to 6 p.m. on 15.10.2014 and for whole day on 19.10.2014 on account of elections to the Legislative Assembly.

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2 Mrs. Thadani, learned counsel for the petitioner, submits that the petitioner have no grievance regarding closure of liquor shops, restaurants and bars mentioned here-in-above from 6 pm on 13.10.2014 to 6 pm on 15.10.2014 as voting is scheduled to take place on 15.10.2014. She, however, submits that counting is scheduled to take place on 19.10.2014 and in view of electronic method adopted for the counting, same will be over within a period of two hours. She relies upon the order dated 15.2.2012 passed by the learned Single Judge of this Court in Writ Petition Lodging No.352 of 2012.

3 Ms. Bhide, learned AGP, relies upon the Rule 9A(2)(2) of the Maharashtra Foreign Liquor (Sale on Cash, Register of Sales, etc.) Rules, 1969 and submits that directions given by the Collectors are within their jurisdiction.

4 There is no dispute that the elections to the legislative assembly is in process. Voting is scheduled to take place on 15.10.2014 and counting will take place on 19.10.2014. In view of the statement made by Mrs. Thadani, learned counsel for the petitioner, directions of the collectors to close liquor shops, restaurants and bars mentioned here-in-above from 6 pm on 13.10.2014 to 6 pm on 15.10.2014 are confirmed.

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5 So far as the Collectors' directions to close liquor shops, restaurants and bars as mentioned above, on the entire day of 19.10.2014 are concerned, I find some merit in the contention of Mrs. Thadani, learned counsel for the petitioner. Learned counsel for the petitioner asserts and Ms. Bhide, learned AGP does not dispute that counting of votes in ensuing elections to the Legislative Assembly would be done by electronic method. They further do not dispute that this counting will be over within a period of 2-3 hours. In any case, counting of votes will be over by 5 pm and thereafter immediately, result would be declared. Thus, election process would be over by 6 pm on 19.10.2014. At this stage, it is also worth to mention that by the very orders, which are impugned in the present petition, Collectors of Mumbai and Mumbai suburbans have allowed to open liquor shops, restaurants and bars mentioned here-in-above after 6 pm on 15.10.2014 on which date voting is scheduled to hold.

6 Similar issue was raised before the learned Single Judge of this Court in Writ Petition Lodging No.352 of 2012. The learned Single Judge by his order modified the orders impugned in the petition to the extent that the liquor shops, restaurants and hotels would remain closed till 5.30 p.m. on the date of counting.

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7 In the above facts and circumstances, in my view, arguable points are raised. Therefore, **Rule.** Hearing expedited.

8 By way of interim relief, following order is passed:

(1) Members of the petitioner shall close their liquor shops, restaurants and hotels mentioned here-in-above in pursuance of the Collectors' orders which are impugned in the present petition on **19.10.2014** till **6 pm**.

(2) They are at liberty to open their shops, restaurants and hotels as mentioned here-in-above **after 6 pm on 19.10.2014** subject to the terms and conditions of their individual licences.

(RANJIT MORE, J.)

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Section Officer

High Court, Appellate Side
Bombay

10/10/2014

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