

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN  
AT JAIPUR BENCH, JAIPUR

:: ORDER ::

D.B. CIVIL WRIT PETITION (PIL) NO.12547/2012  
D.B. CIVIL WRIT PETITION NO.2047/2014

23.03.2015

**HON'BLE THE ACTING CHIEF JUSTICE MR. SUNIL AMBWANI**  
**HON'BLE MR. JUSTICE AJIT SINGH**

Mr.R.N.Mathur petitioner in person.  
Mr.Ashok Gaur assisted by  
Mr.Samarth Sharma, for the petitioners.  
Mr.R.B.Mathur,  
Mr.Sandeep Pathak,  
Mr.Ashish Sharma on behalf of  
Mr.Rajendra Prasad, AAG for the respondents.

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1. We have heard learned counsel appearing for the parties.
2. A request has been made to adjourn the case, on the ground of personal difficulty of Shri Rajendra Prasad, Additional Advocate General. Considering the cause involved and the urgency of the matter, we do not propose to adjourn the case.
3. An interim order was passed on 15.01.2015, which reads as follows: -

*"A practicing Lawyer has brought to the notice of this Court the existence of licensed liquor shops on the National Highways, State Highways, town and village link roads, against the policy of the State Government to grant licenses under Rule 75 of the Rajasthan Excise Rules, 1956 (for short 'the Rules of 1956').*

*It is stated that drunken driving is an offence under the Motor Vehicles Act, and causes serious accidents on the Highways. A compilation of the data, by the petitioner,*

would show that thousands of deaths take place every year on the State Highways on account of drunken driving, yet there are liquor shops and wide advertisements of sale of liquor on the Highways.

The Proviso to Rule 75 regarding location of liquor shops under the Rules of 1956, provides as follows:-

"A shop for the retail sale of country liquor, Foreign liquor and Indian Made Foreign Liquor, beer or Hemp Drugs shall not be located within a distance of 150 meters on both sides from the Centre of National or State Highways, But this condition shall not apply in areas falling within the jurisdiction of Municipal Corporation/Municipal Council /Municipality."

We are pained to observe that instead of joining the cause, the respondents have, in their reply, questioned the data of the deaths on State Highways on account of drunken driving, and are trying to justify the existence of such shops on the ground that number of shops selling Indian Made Foreign Liquor(IMFL), has been reduced from 1700 to 1000; the timing of the shops has been shortened from 9.00 AM to 11.00 PM to 10.00 AM to 8.00 PM, and under Rule 77(b) of the Rules of 1956, publicity and advertisement of liquor/beer has been completely prohibited. The existence of liquor shops on the National Highways has also been defended on the ground of sale of liquor to person below the age of 18 years has been strictly prohibited.

We are not satisfied with the reply filed by the respondents and its concern in reducing the number of deaths due to accidents on account of drunken driving on the Highways.

Let the State Government give us the entire details of existence of the liquor shops on the National Highways, State Highways, town and village link roads, to which licenses

*have been given by the District Excise Officer in the State of Rajasthan.*

*As an interim measure, we direct that hereinafter, no license, of any kind of liquor shop, will be granted by any Licensing Authority in the State of Rajasthan, in contravention to the Proviso to Rule 75 of the Rules of 1956. Steps will be taken to remove all advertisements & hoardings, and to relocate such shops beyond 150 meters on both sides from the Centre of National Highway or State Highway. The condition in the Proviso to Rule 75 of the Rules of 1956, which relaxes the condition about the areas falling within the jurisdiction of Municipal Corporation/ Municipal Council/Municipality, shall remain stayed until further orders, to be passed by the Court.*

*We direct immediate compliance of this order by all concerned authorities in the State of Rajasthan. The reply will be filed within four weeks.*

*List on 19.02.2015.*

*A copy of this order will be served by the Registry on the Chief Secretary, Government of Rajasthan and the Excise Commissioner of Rajasthan."*

4. An application has been filed by learned Senior Counsel appearing in person, that the Excise Policy of the State of Rajasthan for the year 2015-16, does not carry any such restriction, that the liquor shops will not be allotted to be situate within 150 metres of both the sides of the National Highways and State Highways in the areas falling within the jurisdiction of the Municipal Corporation/Municipal Council/Municipality.

5. It is submitted that despite the interim order dated 15.01.2015, the State Excise Department is likely to allot the shops within 150 metres of both sides of the roads, where they are falling within the jurisdiction

of the Municipal Corporation/Municipal Council/Municipality.

6. A reply has been filed, in which reference has been made to a judgment of the Punjab & Haryana High Court, in which the restriction of distance was not made, and with which the Hon'ble Supreme Court did not interfere.

7. Shri R.B.Mathur, learned counsel appearing for the State Excise Department states that the Supreme Court is monitoring the matter, with regard to implementation of the notifications issued by the National Highways Authority of India, not to locate the liquor shops in the proximity of the National Highways. A Committee has been constituted by Hon'ble Supreme Court to effectively implement the directions issued by the National Highways Authority of India, especially in view of the fact that the excise matters fall within the domain of the State Governments.

8. In the State of Rajasthan, Rule 75 of the Rajasthan Excise Rules, 1956 prohibits the location of shop for retail sale of country liquor, foreign liquor or Indian made foreign liquor or hemp drugs, within 150 metres on both sides from the centre of National or State Highways. The issue is created by an exception in the Rule, which provides that this condition shall not apply in areas falling within the jurisdiction of Municipal Corporation/Municipal Council/Municipality.

9. We have, in more than clear terms, issued directions on 15.01.2015, staying the exception, and have also passed orders for immediate compliance of the order by all concerned authorities in the State of Rajasthan.

10. The Excise Policy for the year 2015-16 was declared on 10.01.2015, five days prior to passing of the order dated 15.01.2015, and thus, at this stage, we cannot say that a contempt has been committed by the Excise Department.

11. We do not find that it is necessary for us to clarify the order dated 15.01.2015, by which we have stayed the condition, and proviso to Rule 75 of the Rules of 1956, which relaxes the condition about the distance of location of the liquor shops in the areas falling within the jurisdiction of Municipal Corporation/Municipal Council/Municipality. Our order dated 15.01.2015 is very clear and explicit. Any deviation from the order, or an attempt to flout the order, by allotting the liquor shops within 150 metres, of the National Highways or State Highways in the areas where it passes through the Municipal Corporation/Municipal Council/Municipality, will attract the action to be taken against the authorities under the Contempt of Courts Act, 1971.

12. We had also directed all the advertisements and hoardings from the National Highways and State Highways to be removed. We are informed by learned Senior Counsel appearing in person that at many places, the hoardings have not been removed so far.

13. A writ of mandamus does not require reiteration. The orders have been passed by us on 15.01.2015, in larger public interest, for avoiding easy availability and consumption of liquor, on the National and State Highways, which is a matter of serious public concern, as it causes accidents on account of drunken driving. The availability of liquor, close

to National and State Highways, is a cause of serious accidents, which takes the toll of hundreds of lives in the country, every day.

14. We have perused the reply given by the State as well as heard the arguments of the State Excise Department. The Supreme Court, in public interest, is monitoring the directions of National Highways Authority of India of not establishing and locating the liquor shops in the close proximity of the Highways. Fortunately, in the State of Rajasthan, Rule 75 provides for restriction on locating the liquor shops within 150 metres on both sides from the centre of National or State Highways. The exception to the Rule has been stayed by us.

15. The interim order dated 15.01.2015 is confirmed with observations that any violation of the order will attract serious action, including the action under the Contempt of Courts Act, by the High Court. The State Government and the State Excise Department are further directed to remove all the hoardings and advertisements on the roads, advertising sale of liquor on National and State Highways.

16. The application for vacation of the interim order dated 15.01.2015 is accordingly rejected.

**(AJIT SINGH),J.**

**(SUNIL AMBWANI),ACTG.CJ.**

Skant/-, Proof Reader

All the corrections made in the judgment/order have been incorporated in the judgment/order being emailed.

Shashi Kant Gaur,  
Proof Reader