

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (ST) NO. 2457 OF 2023

All India Wine Producers Association .. Petitioner

Versus

The Deputy Secretary and Assistant Chief
Election Officer, Maharashtra State & Ors. .. Respondents

-
- Mr Atul Damle, Senior Advocate i/by Mr. Vivek V. Salunke for
Petitioner
 - Mr. P.G. Sawant, AGP for State

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WITH
WRIT PETITION (ST) NO. 2684 OF 2023

Association of Progressive Retail Liquor Vendors .. Petitioner

Versus

Collector and District Magistrate, Raigad-
Alibaug & Ors. .. Respondents

-
- Mr Suresh M. Sabrad a/w Mr. Amey Sawant and Roshan Hule for
Petitioner
 - Mr. P.G. Sawant, AGP for State

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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 25, 2023

P.C.:

- 1.** Heard learned Advocates appearing for the parties.
- 2.** Writ Petition (St) No. 2457 of 2023 was mentioned in the morning session and /urgent production was given by the Court in view of the urgency mentioned by Mr. Salunke, learned Advocate appearing for Petitioner.

3. The Writ Petition has been taken up for hearing at 04:30 p.m. after Mr. Sawant, learned AGP has obtained instructions in the matter. By the present Writ Petition, the order / direction dated 05.01.2023 is challenged by which Respondents seek to impose a ban on sale of liquor in the jurisdiction of Nashik District in view of the proposed election to be held on 30.01.2023 for Nashik Graduate Constituency.

4. In the companion Writ Petition bearing (St) No. 2684 of 2023 in which circulation has also been granted, Mr. Sabrad, learned Advocate appears for Petitioner and submits that the same is the position in his petition as in Writ Petition (St) No. 2457 of 2023. Mr. Sabrad submitted that the impugned order is issued by the Collector and District Magistrate, Raigad-Alibaug dated 25.01.2023, *inter alia*, fixing the prohibition from 28.01.2023 (04:00 p.m.) to 31.01.2023 (04:00 p.m.). Mr. Sabrad's Petition is in respect of the elections to be held in the Graduate Constituencies in Konkan Division i.e. Thane, Palghar and Raigad.

5. The submissions made by the learned Advocates have received due consideration.

6. Mr. Damle, learned Senior Advocate would submit that the election that is being held is for the Graduate Constituencies and the voters list is very restrictive i.e. the graduates who have registered for

voting and in that view of the matter, imposing the prohibitory ban for such a long period of four days would adversely affect the livelihood as also the business of Petitioners.

7. Annexed to the Petitions are several orders passed by this Court in earlier proceedings as well as Writ Petitions wherein similar orders passed by the State Government / Respondents have been curtailed and restricted only to the date of voting.

8. Mr. Sawant, learned AGP would submit that in all the four constituencies i.e. Nashik, Thane, Palghar and Raigad, the date of voting is scheduled on 30.01.2023.

9. Mr. Sawant, learned AGP has obtained express instructions and submitted a letter dated 23.01.2023 issued by the Chief Election Officer, Maharashtra State which states that initially in so far as the Nashik Constituency was concerned, they had proposed to impose prohibition for four days, however the Respondents have now restricted the same only to three days and have exempted the date of counting.

10. Perusal of the various orders annexed to the Petitions shows that such Petitions are filed time and again and the Courts are constrained to pass orders.

11. Considering the submissions made by Mr. Damle, learned

Senior Advocate and Mr. Sabrad, learned Advocate in their respective Petitions, I am of the view that the interest of justice would be served if the prohibition imposed by the Respondents is restricted to only the date of voting i.e. 30.01.2023.

12. The aforementioned issue is a recurring issue and therefore, the State Government is directed to take note of the same. Imposing a prohibitory ban for long period on merchant establishments and establishments which provide livelihood is contrary to the enshrined principles under Article 221 of the Constitution of India and whenever such thing happens, the Authorities need to be thoughtful. The present elections are not Parliamentary elections and the yardstick applicable to those elections cannot be *ipse dixit* applied to elections for Graduate constituencies.

13. In view of the above reasons, it is directed that the prohibitory ban imposed by the impugned order in both the Writ Petitions shall only be restricted to 30.01.2023 and all other days stand exempted.

14. Respondents are directed to file their substantive affidavit-in-reply within four weeks from today.

15. Stand over to **22nd February, 2023.**

16. Parties to act on an authenticated copy of this order.

[MILIND N. JADHAV, J.]