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(17)WP-ASDB-LD-VC-26.20

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WP-ASDB-LD-VC-26 OF 2020

Maharashtra Wine Merchants Association. ... Petitioner.
V/s.
The State of Maharashtra and others. ... Respondents.

Mr.Charanjeet Chanderpal for the Petitioner.
Mr.P.P.Kakade, GP with Mr.Sachin Kankal, AGP
for the Respondent-State.

CORAM : NITIN JAMDAR AND
N.R. BORKAR, JJ.

DATE : 29 May 2020.
(Through Video Conferencing)

P.C. :

Heard the learned counsel for the parties.

2. The Petitioner, Maharashtra Wine Merchants Association, has prayed for two reliefs. First, refund of the proportionate amount of licence fee and second a challenge to the notifications/orders dated 5 May 2020, 12 May 2020 and 22 May 2020, with a direction to permit over the counter retail liquor sale in Mumbai.

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3. As regards the refund of proportionate amount of licence fee, four weeks time is granted to the Respondents to file reply-affidavit. After the reply is so filed, liberty to the Petitioner to apply for a date.

4. The counsel for the Petitioner has advanced submissions as regards the challenge to the notifications/orders and on the prayer seeking permission for retail counter sale of liquor. He contends that in the cities of Pune and Nashik, where identical situation exists, normal counter sale of retail liquor is permitted and there is no reason why the same norms are not applied in Mumbai. The learned counsel also referred to the order passed by the Supreme Court dated 8 May 2020 in respect of a petition arising from Tamil Nadu. The learned counsel submitted that the system of online/ home delivery of liquor is fraught with various difficulties and can have adverse social impact, and it is also not safe. He submits that necessary directions be issued to the Respondents accordingly and the impugned notifications be set aside.

5. The impugned order dated 22 May 2020 issued by the Municipal Corporation of Greater Mumbai does not permit over the counter sale of liquor and permits e-commerce platform to be utilized for delivery. This decision is in the nature of policy. Such a decision entails evaluation of various competing factors. Situation may differ from place to place. The relevant factors can also undergo

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a change by passage of time.

6. It will be appropriate that the petition of the Petitioner is placed before the Respondent- Municipal Commissioner as a representation of the Petitioner. The Municipal Commissioner will take an appropriate decision thereupon.

7. The Petitioner, if it has not already served the Municipal Corporation with the copy of the petition, will serve the same.

8. The Petition will be now be heard in respect of prayer regarding refund of proportionate licence fee as noted above.

9. This order will be digitally signed by the Personal Assistant/ Private Secretary of this Court. All concerned to act on production by fax or email of a digitally signed copy of this order.

(N.R. BORKAR, J)

(NITIN JAMDAR, J)