

IN THE SUPREME COURT OF INDIA
INHERENT/CIVIL APPELLATE JURISDICTION
REVIEW PETITION (CIVIL) NO 1107 OF 2023
IN
CIVIL APPEAL NO 1788 OF 2023

M/s Alankar Wines Private Limited

... Petitioner

Versus

Human Rights and Consumer Protection Society & Anr

... Respondents

WITH

REVIEW PETITION (CIVIL) NO OF 2024
(Diary No 21649/2023)
CIVIL APPEAL NO 1788 OF 2023

AND

SPECIAL LEAVE PETITION (CIVIL) NO 15399 OF 2023

O R D E R

Review Petition (Civil) No 1107/2023 and Diary No 21649/2023

- 1 This batch of two Review Petitions arises from a judgment of this Court dated 20 March 2023 in Civil Appeal No 1788 of 2023 (***Kanagachettikulam Makkal Podhunala Eyakkam Vs Union of India & Ors***).
- 2 The appellant before this Court in the Civil Appeal moved the High Court of Judicature at Madras seeking a direction to consider the representation not to shift a liquor shop in the name of M/s Premier Enterprises to an area adjacent to a school, temple and mosque. The High Court, by its judgment dated 4 January

2022, dismissed the writ petition on the ground that the Rules which were applicable in the Union Territory of Puducherry permit the location of liquor shops beyond 100 meters from an educational institution, temple or mosque.

- 3 This Court, in its judgment dated 20 March 2023, recorded that the liquor shop would be within 150 meters from a temple, mosque and educational institution. In the course of its judgment, this Court, adverted to the decision in ***State of Tamil Nadu represented by its Secretary Home, Prohibition and Excise Department & Ors Vs K Balu & Anr***¹ in coming to the conclusion that no liquor shop could be situated within a distance of 500 meters of the outer edge of a national or State highway or of a service lane along the highway. Consequently, this Court came to the conclusion in its judgment under review that the relocation of the liquor shop within 150 meters from a temple, mosque and educational institution was in the teeth of the directions issued by this Court in ***K Balu*** (supra). The appeal was allowed and while setting aside the judgment of the High Court dismissing the Writ Petition, this Court directed that the decision, if any, to shift the liquor shop in the name of Premier Enterprises to an area within 150 meters of a temple/mosque/educational institution was set aside. There was a direction to close the liquor shop if it was still operating and to relocate it to an area beyond 500 meters of a temple, mosque or, as the case may be, an educational institution.
- 4 Two review petitions have been filed respectively by the licensee, Premier Enterprises and by the Union Territory of Puducherry.
- 5 We have heard Mr R Venkataramani, Attorney General for India in support of the
- 1 (2017) 2 SCC 281

Review Petition filed by the Union Territory of Puducherry and Mr PB Suresh, senior counsel appearing on behalf of the licensee, Premier Enterprises. On the other hand, Mr N S Nappinai, senior counsel and Mr Balaji Srinivasan, counsel have appeared to urge to the contrary.

- 6 On behalf of the review petitioners, it has been submitted that the judgment of this Court dated 20 March 2023, which relies on the judgment in **K Balu** (supra), has not taken into account subsequent orders passed by this Court modifying the restriction of 500 meters.
- 7 In order to appreciate the issue under debate, it becomes necessary to spell out the successive orders which have been passed by this Court.
- 8 On 15 December 2016, this Court rendered its judgment in **K Balu** (supra) in a combination of three Judges. The following directions were issued to the States and Union Territories :

“29.1 All states and union territories shall forthwith cease and desist from granting licences for the sale of liquor along national and state highways;

29.2 The prohibition contained in (i) above shall extend to and include stretches of such highways which fall within the limits of a municipal corporation, city, town or local authority;

29.3 The existing licences which have already been renewed prior to the date of this order shall continue until the term of the licence expires but no later than 1 April 2017;

29.4 All signages and advertisements of the availability of liquor shall be prohibited and existing ones removed forthwith both on national and state highways;

29.5 No shop for the sale of liquor shall be (i) visible from a national or state highway; (ii) directly accessible from a national or state highway and (iii) situated within a distance of 500 metres of the outer edge of the

national or state highway or of a service lane along the highway.”

- 9 Subsequently, on 31 March 2017, another three Judge Bench of this Court, *inter alia*, considered whether a relaxation of the distance of 500 meters was warranted in relation to the limits of local bodies with a population of less than 20,000 people. This Court clarified that the prohibited distance within the limits of local bodies with a population of less than 20,000 people should be restricted to 220 meters of the outer edge of a national or State highway or of a service lane along the highway. Consequently, this Court directed that the following operative direction be inserted in the earlier judgment dated 15 December 2016, namely :

“In the case of areas comprised in local bodies with a population of 20,000 people or less, the distance of 500 meters shall stand reduced to 220 meters.”

- 10 Subsequently, on 11 July 2017, in ***Arrive Safe Society of Chandigarh Vs Union Territory of Chandigarh & Anr²***, which arose from Chandigarh, this Court further clarified the matter in the following terms :

“The purpose of the directions contained in the order dated 15-12-2016 is to deal with the sale of liquor along and in proximity of highways properly understood, which provide connectivity between cities, town and villages. The order does not prohibit licensed establishments within municipal areas. This clarification shall govern other municipal areas as well. We have considered it appropriate to issue this clarification to set at rest any ambiguity and to obviate repeated recourse to IAs, before the Court.”

- 11 Finally, on 23 February 2018, an order was passed passed by this Court in ***State***

- 2 (2018) 13 SCC 133

of Tamil Nadu rep by Sec. & Ors Vs K Balu & Anr³, in a batch of Miscellaneous Applications in the following terms :

“8 Having regard to these directions, we are of the view that the state governments would not be precluded from determining whether the principle which has been laid down by this Court in the order dated 11 July 2017 in *Arrive Safe Society* (supra) should also apply to areas covered by local self governing bodies and statutory development authorities. We are inclined to allow the state governments to make this determination since it is a question of fact as to whether an area covered by a local self-governing body is proximate to a municipal agglomeration or is sufficiently developed as to warrant the application of the same principle. In deciding as to whether the principle which has been set down in the order dated 11 July 2017 should be extended to a local self-governing body (or statutory development authority) the state governments would take recourse to all relevant circumstances including the nature and extent of development in the area and the object underlying the direction prohibiting the sale of liquor on national and the state highways. The use of the expression ‘municipal areas’ in the order dated 11 July 2017 does not prevent the state governments from making that determination and from taking appropriate decisions consistent with the object of the orders passed by this Court. We leave it open to individual licensees to submit their representations to the competent authorities in the state governments if they are so advised upon which appropriate decisions may be taken by the state governments. We have issued this general direction to obviate both litigation before the High Courts and repeated recourse to applications to this Court.”

- 12 The above clarification indicated that the State Governments would not stand precluded from determining whether the principle which was laid down in the order dated 11 July 2017 in ***Arrive Safe Society of Chandigarh*** (supra), should also apply to areas covered by local self-governing bodies and statutory development authorities and the expression ‘municipal areas’ in that order would not prevent the State Governments from taking appropriate decisions consistent

3 MA Nos 489-491/2018 **N S Nappinai**

with the orders passed by the Court.

- 13 The original order dated 15 December 2016 in **K Balu** which prescribed an inflexible distance requirement of 500 meters from the outer edge of a national or State highway has since been clarified in the subsequent orders of this Court. Evidently, the judgment of this Court dated 20 March 2023, which is sought to be reviewed, did not notice the subsequent orders possibly because they were not drawn to the attention of the Court.
- 14 In **K Balu**, which was decided on 15 December 2016, this Court indicated that no shop for the sale of liquor shall, *inter alia*, be situated within a distance of 500 meters of the outer edge of a national or State highway or of a service lane along the highway. Subsequently, on 31 March 2017, this Court relaxed the prescription in the case of local bodies with a population 20,000 people or less where the distance was reduced from 500 meters to 220 meters from the outer edge of a National or State Highway. On 11 July 2017, in **Arrive Safe Society of Chandigarh** (supra), this Court further clarified that the order dated 15 December 2016 does not prohibit licensed establishments within municipal areas. On 23 February 2018, this Court has left it to the State Governments to determine whether the same principle should be extended to areas covered by local self-governing bodies and statutory development authorities and the use of the expression 'municipal areas' in the order dated 11 July 2017 will not preclude such an exercise.
- 15 Consequently, in view of the above elaboration, it is apparent that the order of this Court dated 20 March 2023 would have to be reviewed and accordingly

recalled since it proceeds on the original directions contained in **K Balu** (supra) without having regard to the subsequent orders which have clarified the position. We order accordingly.

- 16 That having been said, it is necessary to note that the restrictions which were introduced by this Court in **K Balu**, were in the context of national and State highway. As clarified subsequently, where the area in question falls within municipal or local limits, the distance requirements which are spelt out in the applicable Rules or Regulations would have to be complied with.
- 17 Having recalled the order of this Court dated 20 March 2023, we are of the considered view that it would be appropriate to set aside the impugned order of the High Court and to restore the Writ Petition No 26624 of 2021 which was instituted before the High Court of Madras. We accordingly set aside the order of the High Court dated 4 January 2022 and restore the Writ Petition back to the file of the High Court for decision afresh.
- 18 The Review Petitions are accordingly disposed of.
- 19 Pending applications, if any, stand disposed of accordingly.

Special Leave Petition (Civil) No 15399 of 2023

- 20 The High Court, by its order dated 11 July 2023, has indicated that it was awaiting either a clarification or review of the order passed by this Court on 20 March 2023 in Special Leave Petition (Civil) No 10377 of 2022.
- 21 Since a separate order has been passed in a batch of two Review Petitions

arising from the order dated 20 March 2023, the High Court would be at liberty to dispose of the Writ Petition, namely, Writ Petition No 19132 of 2023 bearing in mind the clarification which has been issued by an order passed separately today.

22 All the rights and contentions of the parties are kept open.

23 The Special Leave Petition is accordingly disposed of.

24 Pending applications, if any, stand disposed of.

.....CJI.
[Dr Dhananjaya Y Chandrachud]

.....J.
[J B Pardiwala]

.....J.
[Manoj Misra]

New Delhi;
January 29, 2024

GKA

ITEM NO.34

COURT NO.1

SECTION XII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 15399/2023

(Arising out of impugned final judgment and order dated 11-07-2023 in WP No. 19132/2023 passed by the High Court Of Judicature At Madras)

M/S ALANKAR WINES PRIVATE LIMITED

Petitioner(s)

VERSUS

HUMAN RIGHTS AND CONSUMER PROTECTION SOCIETY & ANR.Respondent(s)

(IA No. 231529/2023 - EXEMPTION FROM FILING AFFIDAVIT IA No.135144/2023 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT IA No. 231523/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

WITH

R.P.(C) No. 1107/2023 in C.A. No. 1788/2023 (XII)
(FOR GRANT OF INTERIM RELIEF ON IA 77714/2023 FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA 77716/2023 FOR PERSONAL HEARING BEFORE THE COURT ON IA 124487/2023 FOR PERMISSION TO FILE APPLICATION FOR DIRECTION ON IA 180004/2023 IA No.77714/2023 - GRANT OF INTERIM RELIEF IA No. 77716/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES IA No. 180004/2023 - PERMISSION TO FILE APPLICATION FOR DIRECTION IA No. 124487/2023 - PERSONAL HEARING BEFORE THE COURT)

Diary No(s). 21649/2023 (XII)
(IA No. 107019/2023 - APPLICATION FOR LISTING REVIEW PETITION IN OPEN COURT IA No. 107021/2023 - CONDONATION OF DELAY IN FILING REVIEW PETITION)

Date : 29-01-2024 These matters were called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE MANOJ MISRA

For Petitioner(s) Mr. R.venkataramani, AGI

Mr. Aravindh S., AOR
Mr. Abbas, Adv.

Mr. P.B. Suresh, Sr. Adv.
Mr. Vipin Nair, AOR
Mr. Arindam Ghosh, Adv.
Mr. Karthik Jayashankar, Adv.
Mr. Prakash Baghel, Adv.
Mr. Anshumaan Bahadur, Adv.
Mr. P.B. Sashaankh, Adv.

For Respondent(s) Mr. R. Venkataramani, AGI
Mr. Aravindh S., AOR
Mr. Abbas, Adv.

Mr. Balaji Srinivasan, AOR
Mr. Vishwaditya Sharma, Adv.

Ms. N S Nappinai, Sr. Adv.
Ms. Astha Tyagi, AOR
Mr. Nizamuddin, Adv.

**UPON hearing the counsel the Court made the following
O R D E R**

- 1 Delay condoned.
- 2 The Review Petitions and the Special Leave Petitions are disposed of in terms of the signed order.
- 3 Pending applications, if any, stand disposed of.

(GULSHAN KUMAR ARORA)
AR-CUM-PS

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR

(Signed order is placed on the file)