



**IN THE HIGH COURT OF KARNATAKA,**

**KALABURAGI BENCH**

**DATED THIS THE 10<sup>TH</sup> DAY OF NOVEMBER, 2025**

**BEFORE**

**THE HON'BLE MR. JUSTICE M.G.S.KAMAL**

**WRIT PETITION NO. 203474 OF 2025 (EXCISE)**

**BETWEEN:**

VIJAYAKUMAR DESHMUKH  
S/O LATE MALLIKARJUN REDDY DESHMUKH,  
AGE: 55 YEARS, OCC: AGRICULTURE,  
R/O H.NO.156, MSK MILL, BUS STAND ROAD,  
NEAR CENTRAL BUS STAND, SHANTI NAGAR,  
KALABURAGI-585102.

...PETITIONER

(BY SRI AVINASH A. UPLAONKAR, ADVOCATE)

**AND:**

1. THE COMMISSIONER OF EXCISE  
2<sup>ND</sup> FLOOR, TTMC BUILDING "A" BLOCK,  
BMTC, KH ROAD, SHANTHINAGAR,  
BANGALORE - 560027.
2. DEPUTY COMMISSIONER EXCISE,  
AIWAN-E-SHAHI ROAD,  
DIST. KALABURAGI - 585101
3. EXCISE INSPECTOR  
CHITTAPUR RANGE, TQ.CHITTAPUR,  
DIST.KALABURAGI - 585211

...RESPONDENTS





(BY SRI SHESHADRI JAISHANKAR M., AGA FOR R1 TO R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO, (A) TO ALLOW THE PETITION AND DIRECT THE RESPONDENTS NO.1 TO 3 CONSIDER THE REPRESENTATIONS DATED 21-05-2022 (ANNEXURE-B) 05-10-2024 (ANNEXURE-D) AND 18-01-2025 (ANNEXURE-E) IN ACCORDANCE WITH RULE 5-A SUB-RULE (3) OF 1968 IN ACCORDANCE WITH LAW; AND (B) ISSUE ANY OTHER WRIT OR ORDER OR DIRECTION AS DEEMS FIT TO GRANT BY THIS COURT.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE M.G.S.KAMAL

**ORAL ORDER**

(PER: HON'BLE MR. JUSTICE M.G.S.KAMAL)

Petitioner claiming to be son of one Mallikarjun Reddy Deshmukh, is before this court seeking following reliefs:

*"(a) To allow the petition and direct the respondents no.1 to 3 consider the representations dated 21-05-2022 (Annexure-B) 05-10-2024 (Annexure-D) and 18-01-2025 (Annexure-E) in accordance with Rule 5-a sub-rule (3) of 1968 in accordance with law; and*

*(b) Issue any other writ or order or direction as deems fit to grant by this Court."*



2. The case of the petitioner is that his father Mallikarjun Reddy Deshmukh was holding a CL-2 licence at Chittapur Station Road, Door No.1-3-12/1 for the year 1990-91. The said licence was in force for one year. Due to ill-health and financial constraints, father of the petitioner could neither renew the CL-2 licence nor continue the business. That on 10.05.2019, father of the petitioner passed away due to heart attack.

3. Thereafter, petitioner made representations on 21.05.2022 and 05.10.2024 to respondent No.2 seeking renewal of CL-2 licence from 1991-92 to 2024-25. In terms of Rule 17-A of the Karnataka Excise (General Condition of Licences) Rules, 1967 [hereinafter referred to as the 'Rules, 1967' for brevity] also sought permission to shift the location of the licence due to non-availability of the original premises. He gave yet another representation on 18.01.2025 to respondent No.3 with the same request. Since there was no response, petitioner made an application under Right to Information Act on 26.06.2025.



Respondent No.3, by a communication dated 26.06.2025, issued information intimating that on verification, no records regarding issuance of CL-2 licence were found. However, it was observed that there were reference to transactions made for the year 1991-1992. As such, the petitioner is before this Court seeking direction as noted above.

4. Learned counsel appearing for the petitioner, referring to Rule 17-A of the Rules, 1967, vehemently submits that the petitioner, being the son of the deceased licence holder, is entitled for transfer of the licence in his name. He also refers to Rule 5-A of the Karnataka (Sale of Indian and Foreign Liquors) Rules, 1968 [hereinafter referred to as 'Rules, 1968' for brevity] and submits that the petitioner in terms of Sub-Rule (3) of Rule 5-A of Rules, 1968 is entitled for renewal by payment of 50% of the fee prescribed under Rule 8 and the petitioner is ready and willing to pay such fees and seeks for direction to respondent - authorities to consider his application.



5. *Per contra*, learned Additional Government Advocate submits that in the first instance, there are no records whether or not the father of the petitioner had been issued with a licence CL-2 as claimed. He submits mere information in response to the right to information application of father of the petitioner having transacted for a brief period cannot be the ground to presume the existence of licence. Further, he submitted there is no provision for a legal representative to seek renewal of a licence and then transfer. Hence, seeks for dismissal of the petition.

6. Heard. Perused the records.

7. Petitioner has produced a photocopy of licence in Form CL-2 purported to have been issued by the respondent - authorities. The authenticity of said document is yet to be established particularly in view of the response issued to the application filed by the petitioner under Right to Information Act as produced at



Annexure-F. The response to the request made under Right to Information Act is as under:

ಕ್ರ.ಸಂ	ಕೋರಿರುವ ಮಾಹಿತಿ	ವಿವರ
1	<p>ಕಲಬುರಗಿ ಜಿಲ್ಲೆಯ ಚಿತ್ರಾಪುರ ಪಟ್ಟಣ ಸ್ಟೇಷನ್ ಎರಿಯಾದಲ್ಲಿರುವ ಶ್ರೀ ಮಲ್ಲಿಕಾರ್ಜುನ ರೆಡ್ಡಿ ತಂದೆ ತಿಮ್ಮಾ ರೆಡ್ಡಿ ಇವರ ಹೆಸರಿನಲ್ಲಿ 1990-1991 ನೇ ಸಾಲಿನ ಸಿ.ಎಲ್-2 ಸನ್ನಧಿನ ದೃಢೀಕರಣ ಪ್ರತಿ ಮತ್ತು ನೀಲಿ ನಕಾಶೆ ಸದರಿ ಸಿ.ಎಲ್-2 ಸನ್ನಧಿನ ಸಂಬಂಧಪಟ್ಟ ಇತರ ದಾಖಲಾತಿಗಳನ್ನು ದೃಢೀಕರಣ ಪ್ರತಿ ನೀಡುವುದು.</p>	<p>ತಾವು ಕೋರಿರುವ ಮಾಹಿತಿಯಂತೆ ಚಿತ್ರಾಪುರ ವಲಯ ಕಛೇರಿಯಲ್ಲಿರುವ ಎಲ್ಲಾ ದಾಖಲಾತಿಗಳನ್ನು ಪರಿಶೀಲಿಸಿ ನೋಡಲಾಗಿ, ಶ್ರೀ ಮಲ್ಲಿಕಾರ್ಜುನ ರೆಡ್ಡಿ ತಂದೆ ತಿಮ್ಮಾ ರೆಡ್ಡಿ ಇವರ ಹೆಸರಿನಲ್ಲಿದ್ದ ಸಿ.ಎಲ್-2 ಸನ್ನಧಿನ ಸನ್ನದು ಪ್ರತಿ ಮತ್ತು ನೀಲಿ ನಕಾಶೆ ಲಭ್ಯವಿರುವುದಿಲ್ಲ. ಕಛೇರಿ ಕಡತಗಳನ್ನು ಪರಿಶೀಲಿಸುವ ವೇಳೆಯಲ್ಲಿ ಸ್ವದೇಶಿ ಮದ್ಯ ಮತ್ತು ಬೇರ್ ರಹಾದಾರಿ ಪತ್ರಗಳ ವಿವರ (ದಿನಾಂಕ 09/01/1990 ರಿಂದ 03/03/1990 (1989-90)) ಇರುವ ರಜೀಸ್ಟರನರನಲ್ಲಿ ದಿನಾಂಕ: 21/02/1990 ರಂದು ರಹಾದಾರಿ ಪತ್ರದ ಮೂಲಕ ಮದ್ಯ/ಬೇರ್ ದಾಸ್ತಾನು ಈ ಮದ್ಯದ ಅಂಗಡಿಗೆ ಸರಬರಾಜು ಆಗಿರುವ ಕುರಿತು ನಮೂದು ಆಗಿದ್ದು ಕಂಡುಬಂದಿರುತ್ತದೆ. (ಪ್ರತಿ ಲಗತ್ತಿಸಿದೆ) ಹಾಗೂ ಕಛೇರಿ ಕಡತಗಳಲ್ಲಿ ದೊರೆತ ಸದರಿ ಶ್ರೀ ಮಲ್ಲಿಕಾರ್ಜುನ ರೆಡ್ಡಿ ತಂದೆ ತಿಮ್ಮಾ ರೆಡ್ಡಿ, ಇವರ ಮಗ ಶ್ರೀ ವಿಜಯಕುಮಾರ ದೇಶಮುಖ ತಂದೆ ಮಲ್ಲಿಕಾರ್ಜುನ ರೆಡ್ಡಿ ದೇಶಮುಖ ಸಾ: ಚಿತ್ರಾಪುರ ಇವರು ದಿನಾಂಕ: 21/05/2022 ರಂದು ಮಾನ್ಯ ಅಬಕಾರಿ ಆಯುಕ್ತರು, ಬೆಂಗಳೂರು ರವರಿಗೆ ನೀಡಿದ ಮನವಿ ಅರ್ಜಿ, ಸನ್ನಧಿನ ನಕಲು ಪ್ರತಿ ಮತ್ತು ಸದರಿ ರವರ ತಂದೆ ತಾಯಿ ರವರ ಮರಣ ಪ್ರಮಾಣ ಪತ್ರಗಳ ನಕಲು ಪ್ರತಿಗಳನ್ನು ಸೂಕ್ತ ಮಾರ್ಗವಾಗಿ ಅಂದರೆ ಮಾನ್ಯ ಅಬಕಾರಿ ಉಪ ಆಯುಕ್ತರು, ಕಲಬುರಗಿ ಜಿಲ್ಲೆ, ಕಲಬುರಗಿ ರವರು ಮತ್ತು ಮಾನ್ಯ ಅಬಕಾರಿ ಉಪ ಅಧೀಕ್ಷಕರು, ಉಪ ವಿಭಾಗ ಚಿತ್ರಾಪುರವರ ಮೂಲಕ ಈ ಕಛೇರಿಯಿಂದ ಮಾಹಿತಿ ಸಲ್ಲಿಸಲು ಸೂಚಿಸಿದ ಪತ್ರಗಳು ಲಭ್ಯವಿರುತ್ತವೆ. ಪ್ರತಿಗಳನ್ನು ಲಗತ್ತಿಸಿದೆ. ಇವುಗಳು ಹೊರತು ಪಡಿಸಿ ಇತರೆ ಯಾವುದೇ ದಾಖಲಾತಿಗಳು ಈ ಕಛೇರಿಗೆ ಲಭ್ಯ ಇರುವುದಿಲ್ಲ ಎಂಬ ಮಾಹಿತಿ ತಮಗೆ ನೀಡಿದೆ.</p>
2	<p>ಕೋರಿರುವ ಮಾಹಿತಿ ಅವಧಿ.</p>	<p>1990-1991 ನೇ ಸಾಲಿಗೆ</p>



8. Thus, as rightly pointed out by learned AGA appearing for the respondent - authorities, at the first instance petitioner is not able to prove the very issuance of licence in the name of his father. As such, consideration of his application for renewal of a non existing licence would not arise.

9. Be that as it is, learned counsel for the petitioner relied upon Rule 17-A of Rules, 1967, which reads as under:

*"17-A. Transfer in the event of death – In the event of death of the licensee or the lessee, the Deputy Commissioner may on an application by the legal heirs of the deceased with the previous sanction of the Excise Commissioner, transfer the licence or the lease as the case may be, in their favour."*

10. A perusal of the aforesaid provision indicates that though transfer of the licence is permissible in the event of death of the holder in favour of his legal heirs, it presupposes existence of a licence at the time of death of the licence holder. In the instant case, even according to the petitioner, the alleged licence was issued in the year



1991 only for a period of one year and the same has not been extended thereafter.

11. Renewal of licence is contemplated under Rule 5-A of the Rules, 1968, which reads as under:

***"5-A. Renewal of licence.-(1) The Excise Commissioner or the Deputy Commissioner, as the case may be, may on an application made to him along with the licence fee prescribed in Rule 8 renew the licence granted under these rules except wholesale licence granted in Form CL-1 or Form CL-1 (Beer), for the period commencing from 1st July, 2006.***

*(2) Every such application shall be made at least one month before the expiry of the licence already granted:*

*Provided that the Excise Commissioner or the Deputy Commissioner, as the case may be, may accept and consider any such application made after the aforesaid period of one month, if he is satisfied that the applicant had sufficient cause for not making the application within that period.*

*(3) The licences granted prior to the first of July, 1999 may be renewed at the discretion of the Excise Commissioner or the Deputy Commissioner, as the case may be on payment of 50% (fifty per cent) of the fee prescribed under Rule 8 in respect of the entire period for which licence was not granted, for the purpose of maintaining continuity of the licences:*

*Provided that while renewing the licence under this sub-rule the Deputy Commissioner or the Excise*



*Commissioner, as the case may be shall ensure that the total number of licences granted or renewed do not exceed the quota fixed in Rule 12, for grant of each kind of licence for an area."*

12. Sub-rule (2) of Rule 5-A of Rules, 1968 contemplates filing of an application for renewal one month before the expiry of the licence already granted. However, with a discretionary power vested with the Excise Commissioner or the Deputy Commissioner, as the case may be, to condone the delay. Sub-rule (3) of Rule 5-A of Rules, 1968 as noted above also provides for renewal of the licence issued prior to 01.07.1999 on payment of 50% of the prescribed fee for the purpose of maintaining continuity of the licences.

13. Learned counsel for the petitioner heavily relies upon sub-Rule (3) of Rule 5-A of Rules, 1968 to contend that since the licence in the instant case was issued prior to 1999, case of the petitioner can be considered on payment of 50% of the prescribed fee.



14. Said submission cannot be countenanced inasmuch as, proviso to sub-rule (3) of Rule 5-A of Rules, 1968 indicates such renewal shall ensure that the total number of licences granted or renewed do not exceed quota fixed in Rule 12 for the grant of each licence of an area. Rule 17-A of Rules, 1967 and Rule 5-A of Rules, 1968, as noted above, operate in a completely different domain. No provision of law is brought to the notice of this Court by the petitioner, entitling him to seek renewal of licence which is expired during the lifetime of the licence holder and for transfer thereafter upon his demise under Rule 17-A of Rules, 1967.

15. Learned counsel for the petitioner fairly submits that there is no such provision provided. However, he insists Rule 17-A of Rules, 1967 and Rule 5-A of Rules, 1968 should be read together. This Court is unable to accept the said submission. Renewal of licence under Rule 5-A has to be strictly under the provisions contemplated therein which is already extracted



hereinabove. Admittedly, no such renewal has taken place during the lifetime of Mallikarjun Reddy. Even if it is assumed that such a licence had been issued in favour of Mallikarjun Reddy, the information provided under Right to Information Act as extracted hereinabove does not support the claim of the petitioner of his father having been issued with licence. Transfer of licence under Rule 17-A presupposes existence of a valid licence.

16. The Co-ordinate Bench of this Court in the case of **Narasegowda vs. State of Karnataka** reported in **ILR 2007 KAR 4299**, while dealing with the demand notice issued by the authorities to deposit the entire arrears of licence fee for the purpose of renewal of licence under sub-Rule (3) of Rule 5-A of Rules, 1968, at paragraph 7 has held as under :-

*"7. The analysis of Rule 5-A of the Rules in that an application for renewal must be accompanied by the prescribed fee in terms of Rule 8 of the Rules. In other words, every licence sought to be renewed, must as on the date of the application be an-existing licence, for otherwise, the question of making an application for renewal at least one month before the expiry of licence period does not arise. Rule 5-A of the Rules envisaged*



*renewal of licence only in case the same is a duly renewed for the previous period also. The scheme of the Rules does not provide for a situation where a licence may be renewed inter-mittently. In order that the renewal is granted for future, the Rules pre-suppose that the licence is renewed even for the past to maintain its efficacy. When seen in that context, the renewal approved by the Government would be a renewal from the date of expiry of the licence. Such a retrospective renewal would be necessary because, but for the grant of such a renewal, the question of renewal of licence only for the year 2007-08 would not arise. In that view of the matter, the demand notice issued by the authorities calling upon the petitioners to deposit the entire arrears of licence fee cannot be said to be illegal or bad in law.*

17. Thus, even for seeking renewal of licence under sub-Rule (3) of Rule 5-A of Rules, 1968, the petitioner has to establish that the licence was duly renewed for previous years which is not the case on hand.

18. Another aspect of the matter is that the petitioner has approached this Court after lapse of 35 years. The father of the petitioner has taken no steps during his lifetime seeking renewal of licence though he is stated to have passed away on 10.05.2019. Such an inordinate delay on the part of the petitioner or his father cannot be a ground. Sub-rule (2) of Rule 5-A of Rules, 1968 referred to above requires renewal application be



made within one month before expiry of licence already granted. Said period of limitation cannot be made inapplicable while considering the application under sub-Rule (3) of Rule 5-A of Rules, 1968. In any case, not after lapse of 35 years as in the case at hand.

19. No grounds made out either on the facts or on the law. Accordingly, petition is ***dismissed***. Notwithstanding the dismissal of the petition, petitioner is entitled to seek issuance of fresh licence in accordance with law.

**Sd/-**  
**(M.G.S.KAMAL)**  
**JUDGE**

SWK  
List No.: 1 Sl No.: 22  
CT:PK