

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

OWP No. 1666/2017

Manzoor Ahmad Dar

...Appellant/Petitioner(s)

Through: None

Vs.

State of J&K and Ors.

...Respondent(s)

Through: Mr. Mohsin Qadri, Sr. AAG

CORAM:

HON'BLE MR JUSTICE SANJEEV KUMAR, JUDGE

HON'BLE MR JUSTICE PUNEET GUPTA, JUDGE

ORDER

17.03.2023

The instant petition is filed by one Manzoor Ahmad Dar S/o Abdul Ahad Dar R/o Nishat, Srinagar, seeking recall of the order dated 27th October, 2015, passed in OWP (PIL) No. 19/2015. The petitioner has also sought directions to the respondents to close all such shops and establishments where liquor is stored and sold and to rehabilitate those engaged in the business of storing and selling of liquor by providing them alternate means of livelihood.

Public Interest Litigation OWP (PIL) No. 19/2015, was filed by Karwani Islami Society, registered under the Societies Registration Act, 1998, seeking *inter alia* a direction to the erstwhile State of Jammu and Kashmir, to take necessary steps for prohibition of sale and consumption of liquor in the erstwhile State of J&K.

The matter was considered by the Division Bench of this Court at length and vide Judgment dated 27th October, 2015, the OWP(PIL) was

disposed of, holding that it was not permissible under law to issue writ of mandamus to enforce strict prohibition in the then State of Jammu and Kashmir. Article 47 of the Constitution of India, which was strongly relied upon by the petitioner in the OWP(PIL) was held not enforceable through Court of law, being one of the directive principles of the State policy. The Division Bench, however, took note of the then Excise policy, promulgated by the respondents and directed them to enforce the same in letter and spirit. This was the position existing in the year 2015. Several Excise policies have been issued thereafter. As a matter of fact, respondents are coming up with new Excise policy every year. It is true that while disposing of the OWP(PIL) No. 19/2015, vide order dated 27th October, 2015, liberty was given to the petitioner or any person, who is affected or interested in the implementation of the restriction/regulations, to approach this Court for appropriate direction. It seems that taking cue from aforesaid direction, the petitioner has filed this petition.

Be that as it may, we reiterate that this Court cannot, by issuing writ of mandamus, enforce the directive principles of State policy and direct the respondents to enforce strict prohibition in the Union Territory of Jammu and Kashmir. The trade in liquor in the UT of J&K is regulated by the J&K Excise Act and the rules framed therein. The Government is empowered to frame Excise policy to regulate such trade within four corners of Excise Act and rules framed therein.

That being the position, this petition, by the efflux of time is rendered infructuous. The petitioner, however, if feels aggrieved by the Excise policy in vogue or Excise policy, which is issued for the next financial year, shall be well within its right to make his grievance by setting up specific case against any of the terms and conditions of the

policy. The instant petition, which has otherwise outlived its purpose, is rendered infructuous and, therefore, no directions as prayed for in the petition are called for.

With the aforesaid observations, we **close** this petition.

(PUNEET GUPTA)
JUDGE

(SANJEEV KUMAR)
JUDGE

SRINAGAR

17.03.2023

"Mohammad Yasin Dar"

