2026 INSC 1009

**REPORTABLE**

**IN THE SUPREME COURT OF INDIA**
**CIVIL ORIGINAL JURISDICTION**

**WRIT PETITION (C) NO. 893 OF 2019**

**M/S BALAJI FORMALIN PVT. LTD. & ANR. ...PETITIONERS**

**VERSUS**

**UNION OF INDIA & ANR. ...RESPONDENTS**

**WITH**
**WRIT PETITION (C) NO. 1059 OF 2019**

**THE CHEMICAL AND ALKALI MECHANDS ASSOCIATION & ANR. ... PETITIONERS**

**VERSUS**

**UNION OF INDIA & ANR. ...RESPONDENTS**

**AND**
**CIVIL APPEAL NO. 13008 OF 2026**
**(@SPECIAL LEAVE PETITION (C) NO. 16236 OF 2019)**

**INDIAN CHEMICAL COUNCIL ... APPELLANT**

**VERSUS**

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Date: 2026.10.28 16:32:20 IST
Reason:

**STATE OF MAHARASHTRA ... RESPONDENT**

# J U D G M E N T

**J.B. PARDIWALA, J.**

For the convenience of exposition, this judgment is divided into the following parts:-

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1. Leave granted in SLP (C) No. 16236 of 2019.

2. We are, in this case, concerned with the measures adopted by the Administration in the wake of a hooch tragedy to make methanol, both unpalatable and unrecognizable. Mark Twain has famously said, "*Evidence has been brought forward which proves that prohibition only drives drunkenness behind doors and into dark places, and does not cure it or even diminish it*".

3. Forced temperance, it is learned from experience, is no solution for alcoholism. Neither the taste or colour matters, for the one craving and in making such a measure, the fallout is the death

knell of an industry. To adulterate methanol with a bitterant and colourant would not quell the craving and to achieve unavailability, there should be stricter regulatory measures for transportation and storage as put forth in the excise laws. The present exercise puts to jeopardy an industry itself and would result in 'missing the woods for the trees'.

4. Since the issues raised in the two captioned writ petitions and the appeal, respectively, are the same, those were taken up for hearing analogously and are being disposed of by this common judgment and order.

**I. BACKGROUND**

5. By the aforecaptioned writ petitions, the petitioners seek a declaration that Notification No. DRG 2006/1006/C.R. 659/06/DRUGS-2 dated 21.01.2011 ("**2011 notification**") issued by the Medical Education and Drugs Department, Government of Maharashtra be declared *ultra vires* the Poisons Act, 1919 (for short, "**the Poisons Act**"), as well as the Constitution to the extent of insertion of Rules 18A and 18B, respectively ("**the impugned rules**"), in the Maharashtra Poisons Rules, 1972 (for short, "**the Maharashtra Poisons Rules**").

6. The aforecaptioned appeal arises from the judgment and order passed by the High Court of Bombay dated 03.05.2019 in W.P. No. 2535 of 2012 by which the High Court dismissed the writ petition holding that the Rule 18A(2) of the Maharashtra

Poisons Rules does not have an extra-territorial operation ("**the impugned judgment**").

7. The issue involved in the present litigation is plain and simple. The petitioners are aggrieved by the operation of impugned rules 18A and 18B of the Maharashtra Poisons Rules, respectively, which restrict purchase of methanol, and mandate the addition of bitterant and colourant to methanol before sale to a non-drug manufacturer. Further, by operation of Rule 18B, any possession of methanol without a licence in Form A is liable to confiscation. The practical hardship for the petitioners lies in the fact that after addition of the denaturant, their final products are not acceptable by other industries.

8. It appears from the materials on record that sometime in the year 1991, around 250 persons consumed spurious liquor purchased from one Chhaya Bar situated in Andheri, Mumbai Suburban. The persons, who had consumed liquor, had no idea that what was consumed by them was methanol, which is no less than poison. As a result, around 93 persons lost their lives.

9. In the wake of this incident referred to above, it appears that the State Government thought fit to appoint a Committee under the Chairmanship of P.R. Parthasarthy, Addl. Director General of Police to look into the causes for the liquor tragedy and the measures to be taken. The Committee tendered its report to the State Government with several suggestions, one of them was translated into action by the 2011 notification.

10. By the 2011 notification, the Maharashtra Poisons Rules were amended and alongwith the following impugned rules, methanol was inserted in the Schedule appended to the said rules to be recognized as a 'poison'. The impugned rules read thus:-

> "*18A. Ascertaining use of Methanol (Methyl Alcohol) at the time of sale:*
> *(1) A licensee who desires to sell Methanol (Methyl Alcohol) to anyone shall first ascertain the use of that substance for which the purchase is being made. This shall be done by verifying the licence issued to the purchaser by the Licensing Authority in Form A.*
> *(2) Except when the Methanol (Methyl Alcohol) is being purchased for the manufacture of drugs as certified by the local Food and Drugs Administration, a licensee shall not sell Methanol (Methyl Alcohol) to any person, unless the same is, before the sale thereof, mixed with one gram of methylene carmine and four grams of denatonium Saccharide to every one hundred liters of Methanol (Methyl Alcohol).*
>
> *18B. Methanol (Methyl Alcohol) to be confiscated if found without valid licence:*
> *Any Methanol (Methyl Alcohol) found to be in possession without a valid licence issued in Form A shall be confiscated.*
>
> *18C. Persons, Firms or Companies already in business of Methanol (Methyl Alcohol) to obtain licence within ninety days.*
> *Persons, firms or companies who are already in the business of Methanol (Methyl Alcohol) in whatever capacity and are required to obtain a licence under these rules, shall obtain such a licence within a period of ninety days from the*

*date of publication of the Maharashtra Poisons (Amendment) Rules, 2011, in the Official Gazette.*"

11. Being aggrieved by the impugned rules, two writ petitions bearing nos. 2153 of 2012 and 2535 of 2012, respectively, were filed in the High Court.

12. The High Court *vide* its order dated 24.02.2012 granted interim relief permitting the purchase of methanol by non-drug manufacturers or actual user of dyes, drugs and chemicals. However, such persons were required to submit their purchase orders to the Food and Drug Administration.

13. The High Court dismissed the aforesaid petitions *vide* the impugned judgment and upheld the validity of the impugned rules. However, the High Court upon request made by the original appellant extended the aforesaid relief to enable the appellant to question the legality and validity of the impugned judgment before the Supreme Court.

14. In such circumstances referred to above, the appellants are here before this Court with the present appeal.

**II. SUBMISSIONS ON BEHALF OF THE PARTIES**

**i. Submissions on behalf of the petitioners in W.P. No. 893 of 2019 & appellant in SLP(C) No. 16236 of 2019, respectively**

15. Mr. Balbir Singh, the learned Senior Counsel appearing for the petitioners would submit that as methanol is one of the key ingredients in products like formaldehyde, disinfectants, paraformaldehyde, decorative laminate, paint, resin

manufacture, the mandatory addition of denaturant would make it unsuitable for industrial use.

i. Mr. Singh further submitted that the impugned notification being disproportionate and arbitrary is violative of Article 14 of the Constitution. In the same breath, he submitted that the restriction imposed by the impugned rules, said to be in the interest of general public are not reasonable, and are violative of the fundamental right to carry on occupation, trade or business.

ii. Mr. Singh highlighted that as methanol is governed by various other legislation, the introduction of the impugned rules was not at all necessary. He illustrated that methanol falls within Class 'A' hazardous product under the Petroleum Rules, which means all storage facilities and transportation tankers have to be approved and licenced by the Chief Controller of Explosives. Any tanker leaving a port is required to be mandatorily surveyed, samples are drawn and tankers are sealed. This acts as a necessary safeguard against pilferage.

iii. He submitted that by operation of the impugned rules even the producers of methanol would not be in a position to sell methanol in State of Maharashtra and thus, would be forced to export it to other states, or stop production altogether.

iv. As regards Rule 18A, Mr. Singh emphasized that the rules require that a licensee who desires to sell methanol to anyone is mandatorily required to ascertain the use of the substance for which the purchase is being made. Such

ascertainment is required to be done by verifying the licence issued to the purchaser in Form A. However, the anomaly lies in the fact that the proforma of Form A does not prescribe the ultimate use of the licensee nor specifies what the business of the licensee is. As a result, the verification as mandated by Rule 18A(1) is almost impossible to achieve.

v. In addition to the aforesaid, something very gross was pointed out by Mr. Singh. The colourant identified and mandated by the State in Rule 18A(2) contains carcinogenic materials which promote cancer causing cell formation.

vi. In such circumstances referred to above, the learned counsel would submit that the impugned notification is an unreasonable and a disproportionate exercise of power and is liable to be struck down for being violative of Articles 14 and 19(1)(g), respectively.

**ii. Submissions on behalf of the Respondent-State**

16. Mr. Anand Dilip Landge, the learned counsel appearing for the State of Maharashtra would submit that the issue at hand should be addressed posing the question, whether a piece of legislation enacted to prevent colourless and odourless methanol from being misused, or mistaken for consumable alcohol is liable to be struck down merely because a commercial user considers some other regulatory method more preferable.

i. Mr. Landge further submitted that as methanol can be indistinguishably mixed with liquor and can cause grave

loss of life, the impugned notification has a direct nexus with the prevention of this misuse by identification of methanol. The prescribed colorant assists visual identification and the bitterant makes accidental or intentional consumption difficult. The impugned rules are lawful as it merely regulates sale and does not prohibit manufacture or import of methanol.

ii. He argued that the power to "regulate sale" permits the State to prescribe the condition or form in which a poison may be sold. In this context, he submitted that regulation would include prescription of conditions that make the substance identifiable, traceable and less capable of misuse. The prescribed addition is a condition attached immediately before sale and is covered within "regulation of sale". He added that under Sections 2 and 8 of the Poisons Act, respectively, the State possesses authority to prescribe an identification safeguard for methanol at sale.

iii. In the aforesaid context, he placed reliance on the decision of this Court in ***Goodwill Paint & Chemical Industry* v. *Union of India***, reported in **1992 Supp (1) SCC 16**, to submit that this Court has recognized that inherently dangerous consequences associated with trade in poisons justify statutory restrictions.

iv. Mr. Landge contended that the restriction imposed is proportional and reasonable as it regulates sale of methanol. The other measures like sealing of tankers, petroleum-safety

licences and hazardous-chemical rules serve different purposes and do not prevent diversion after transport, unlawful resale, substitution, or use of illicit liquor.

v. In such circumstances referred to above, the learned counsel prayed that there being no merit in the petitions those be dismissed and the interim protection operating against the enforcement of the impugned notification be vacated. In the alternative, issues regarding specification of the additives, manner of certification, licensing of a genuine industrial consumer, may be left to the competent authority for a time-bound decision without disturbing the validity or enforcement of the impugned notification.

**III. ISSUE FOR CONSIDERATION**

17. Having heard the learned counsel appearing for the parties and having gone through the materials on record, the following question fall for our consideration:-

a. Whether Rules 18A and 18B, respectively, inserted by the Maharashtra Poisons (Amendment) Rules, 2011, in the Maharashtra Poisons Rules, 1972, could be said to be violative of Articles 14 and 19(1)(g) of the Constitution, respectively?

**IV. ANALYSIS**

18. Before adverting to the rival submissions canvassed on either side, we must briefly look into the relevant provisions of the Poisons Act as well as the Maharashtra Poisons Rules.

19. The Poisons Act seeks to regulate the import, possession, and sale of poisons. Section 2 empowers the State Government to formulate rules regulating the possession and sale of poisons. Sub-section (2) empowers the State to formulate rules for regulating the grant of licences for production, possession and sale of specified poisons. Section 3 confers power upon the Central Government to prohibit import of poisons without a licence. Likewise, Section 4 confers power upon the State Government to regulate possession of any specified poison alongwith prescribing appropriate punishment. Section 5 provides for a deeming fiction that any substance declared as a poison under the rules or notification would be deemed to be a poison under the Act. Section 6 further provides the penalty for unlawful importation for specified poisons. Section 7 confers power upon the District Magistrate, Sub-divisional Magistrate, Commissioner of Police, respectively, to issue warrant for search of any place. Section 8 confers power on the State Government to make rules in furtherance of objects and purposes of the Act, in addition to that contained in Section 2. It is in exercise of the powers under Sections 2 and 8, respectively, that the Maharashtra Poisons Rules came to enacted.

20. Rule 3 of the Maharashtra Poisons Rules provides that possession of any poison for the purposes of its sale or sale of any poison as the case may be shall be made only under a valid licence issued in Form A, unless exempted by the rules. Rule 4 prescribes the Form and process for grant or renewal of

such licences. Rule 9 addresses dispensation and sale of poisons. Rule 9(2) states that every sale of poison shall be made only in person, or where it is a company through or under the supervision of an accredited representative. Rule 10 indicates to whom any poison specified within the rules may be sold. Having regard to the relevance of the rule, it would be apposite to quote it. It reads thus:-

> "*10. Persons to whom poisons may be sold. – (1) Subject to the provisions of these rules, a licensee may sell any poison to any person if he –*
>
> *(a) is a licensee or holds a permit in Form B;*
>
> *(b) is personally known to the licensee or is identified to his satisfaction;*
>
> *(c) is over the age of 18 years;*
>
> *(d) is not wandering medicant*
>
> *(e) appears to be in his senses.*
>
> *(2) The licensee shall not sell any poison in any quantity exceeding that specified in the permit.*
>
> *(3) The licensee shall retain the permit with him on sale of the poison to the permit-holder.*"

21. Rule 11 mandates every licensee to maintain a register for the purposes of recording sale of poisons by him. The register shall contain the name of the poison, purpose for which the poison was required, and the quantity sold. In addition to this, Rule 12 further mandates a licensee to maintain a stock register *qua* each poison, recording the daily balance of stock of poisons. Rule 14 confers power on various authorities to inspect stock of poisons at the licensee's premise, and the registers maintaining record of poison at any time. Rules 15, and 16, respectively, prescribe the manner in which poisons are to be stored, packaged and labelled.

22. Rule 15A inserted by the 2011 notification prescribes the manner in which methanol would be carried in containers in transit. The impugned rules, more particularly, Rules 18A and 18B, respectively, requires a purchaser to hold a licence in Form A in order to buy methanol, the mandatory addition of denaturant in methanol except when being purchased for the purpose of drug manufacturing, and the confiscation of methanol in case of absence of licence in Form A, respectively.

**A. Whether Rules 18A and 18B, respectively, of the Maharashtra Poisons Rules could be said to be arbitrary, disproportionate, and unreasonable?**

23. The impugned rules brought into force by the 2011 notification are in a form of a subordinate legislation. It is now well settled by a catena of decisions that validity of a subordinate piece of legislation may be challenged on the following grounds:-

i. There is lack of legislative competence to make the subordinate legislation;
ii. It is *ultra vires* the fundamental rights or any other Articles of the Constitution;
iii. It is *ultra vires* the parent Act;
iv. It is contrary to the any other statutory provision;
v. The law-making power has been exercised in bad faith;
vi. It is manifestly arbitrary or unreasonable;
vii. It does not fulfill the object and purpose of the parent Act, or exceeds the limits of authority conferred by the enabling Act.

[See: ***State of Tamil Nadu* v. *P. Krishnamoorthy*, (2006) 4 SCC 517**; ***Mahalakshmi Sugar Mills Co. Ltd.***

**v. *Union of India*, (2009) 16 SCC 569**; ***Vasu Dev Singh* v. *Union of India, (2006) 12 SCC 753***.]

24. It is trite law that a subordinate legislation can be challenged on the same grounds available against a plenary legislation. In other words, a subordinate legislation should not be an exercise of power that is unreasonable, lacking an adequate determining principle, irrational, excessive or disproportionate. The object behind the State action, the manner in which it is undertaken, and its effect on the fundamental rights, all must meet the tests of Part III of the Constitution.

25. The test of arbitrariness under Article 14 is not merely whether the object is legitimate, but whether the means adopted bear a reasonable and proximate nexus to that object, and whether those means are proportionate to the burden they impose. This has also been expressed in several decisions as, the validity of a law which infringes the fundamental rights has to be tested not with reference to the object of the State action but on the basis of its effect on the rights.

26. It is not necessary for us to multiply precedents on the exposition of arbitrariness as the principles are well settled by a catena of decisions of this Court.

27. At the cost of repetition, we deem it necessary to once again quote Rule 18A, for a better exposition. The same reads thus:-

> "*18A. Ascertaining use of Methanol (Methyl Alcohol) at the time of sale:*
> *(1) A licensee who desires to sell Methanol (Methyl Alcohol) to anyone shall first ascertain the use of*

*that substance for which the purchase is being made. This shall be done by verifying the licence issued to the purchaser by the Licensing Authority in Form A.*

*(2) Except when the Methanol (Methyl Alcohol) is being purchased for the manufacture of drugs as certified by the local Food and Drugs Administration, a licensee shall not sell Methanol (Methyl Alcohol) to any person, unless the same is, before the sale thereof, mixed with one gram of methylene carmine and four grams of denatonium Saccharide to every one hundred liters of Methanol (Methyl Alcohol).*"

28. Before we proceed to address the inconsistencies and the nature of restriction imposed by the rules, it would be apposite to discuss the licensing framework provided by the Maharashtra Poisons Rules. Rule 4 of the said rules prescribes that any person who wishes to sell, or to possess for sale, any poison must hold a licence in Form A. Such a licence has to be acquired for all the respective premises where the applicant seeks to stock poisons. Thus, Form A is granted only to a person who either sells poisons or possess for the purpose of sale. Further, Rule 10 stipulates to whom poison be sold which includes a person who is either a licensee or holder of a permit in Form B.

29. In addition to the aforesaid, the impugned Rule 18A(1) prescribes a condition that a licensee before selling methanol must ascertain the use of methanol and this shall be done by verifying whether the purchaser holds a licence in Form A. In other words, it restricts the purchase of methanol by anyone for further use, more particularly, manufacturers of

downstream products. It also forestalls a permit holder in Form B from procuring methanol, even to be used as a raw material. It would not be inapposite to say that a purchaser who is a manufacturer of a product in which methanol is a raw material would not hold Form A licence.

30. The sub-rule also overlooks that "*ascertainment of use*" is already covered under Rule 11 as well as the permit in Form B. As a corollary to the aforesaid rule, the licensee-seller would also be precluded from selling methanol to any manufacturer or industrial consumer. Thus, Rule 18A virtually changes the purpose of licence in Form A, puts a licensee-seller and a purchaser on the same pedestal, and renders permit in Form B nugatory.

31. There is no gainsaying that a law requiring that an act which is inherently dangerous, noxious or injurious to public health and safety may be regulated by a permit or licence under the stamp of an authority. No person can claim such a licence or permit as a right, and such a restriction regulated by rules would be reasonable.

32. The question that begs for an answer now is whether the impugned rules fall within the ambit of the saving clause of Article 19(6) or is in excess of it and thereby violative of Article 19(1)(g).

33. The impugned rules would stand the test of constitutionality only if the respondent is successful in establishing that the restriction imposed is reasonable and in the larger public

interest. In other words, the restriction on the freedom guaranteed was necessary, and the intended object could not have been achieved by imposing a less drastic restriction. [See: ***Mohd. Faruk v. State of M.P.***, **(1969) 1 SCC 853**]

34. A restriction can be said to be reasonable when it is not excessive in nature, more particularly, when it does not go beyond what is required in the public interest, is born out of care and deliberation of relevant factors, and strikes a balance between the rights guaranteed and societal interests.

35. When restriction imposed by sub-rule (1) of Rule 18A is tested on the anvil of the aforesaid principle of law, it fails on two counts. *First*, the restriction is disproportionate or rather wider than what the object justifies. It proceeds on the erroneous understanding that by verifying licence in Form A the seller would be able to ascertain the use of the methanol. Further, it assumes that by verifying the purchaser's licence, methanol would not reach persons who may use it for adulteration of liquor.

36. *Secondly*, what is discernable from the aforesaid is that the restriction fails to strike a balance as, it shifts the burden onto a class of persons while also leaving the public interest unserved. The State action is excessive. We say so because less drastic measures like cancellation or debarment of licensees found in breach of rules, the imposition of more stringent conditions at the stage of grant of renewal of licence, a requirement for the return of unsold or excess methanol to the

licensee or a designated authority after a specified period alongwith calling for explanation, coupled with penal consequence in cases of non-maintenance or discrepancy in the registers, etc., are all left unaddressed.

37. Thus, the sub-rule fails to constitute a reasonable restriction in public interest within the meaning of Article 19(6), and therefore violate Article 19(1)(g).

38. We shall now address ourselves on sub-rule (2) of Rule 18A. This sub-rule mandates addition of 1g of methylene carmine (colourant) and 4g of denatonium saccharide (bitterant) to every 100l of methanol before it is sold to any non-drug manufacturer.

39. We are conscious of the fact that some hardship or inconvenience that may be caused to a section of society cannot by itself be a ground to strike down a legislation. If a rule otherwise appears to be fair, just and reasonable, and does not suffer from the vice of any constitutional guarantee, mere fact that some hardship, financial burden, or commercial difficulty is caused is no ground to declare the State action unconstitutional. However, such actions must be reasonable and proportionate.

40. In the present case, the aforesaid requirement of addition of bitterant and colourant in methanol prescribed under Rule 18A(2) fails the test of being reasonable and having a proximate nexus to the object on two counts.

41. *First*, a careful reading of the Parthasarthy Committee Report would reveal manifold causes for liquor tragedies apart from methanol being sold illegally by the licensees. The other causes identified by the Committee were methanol being diverted through illegal and unlicensed channels, availability of methanol as a cheaper alternative to ethyl alcohol, corruption in law enforcement agencies, genuine confusion between ethyl and methyl alcohol, and pilferage. All such causes reasons may continue to operate despite the regulatory framework that the impugned rules seek to put in place. In other words, a large chunk of persons supplying spurious liquor in the market operate beyond the framework of the impugned rules.

42. The aforesaid causes, namely, methanol being diverted through illegal and unlicensed channel, or pilferage do not originate at the point of lawful sale by a licensee which the impugned rule seek to regulate, or for reasons, namely, confusion, or misuse of licensee's premise, rules already exist in place but are not implemented well, and for other reasons, namely, corruption, or methanol being a cheaper alternative, they are outside the ambit of the Maharashtra Poison Rules.

43. In the context of the present sub-rule, a person who indulges in diverting methanol through illegal or unlicensed channels, or by pilferage, may not pass through the point of sale that the impugned rule seeks to regulate. The impugned denaturing requirement leave diversion outside the register unaddressed.

44. The following industries through their respective affidavits have explained the manner in which they are affected by the operation of the sub-rule (2) of Rule 18A. It reads thus:-

| Industries | How are they affected? |
|---|---|
| Aarti Industries Ltd. (Spack Division) | ▪ Bitterant will leave traces in final product.<br>▪ As their final product (Di Methyl Sulphate) is colourless, colourant will lead to colouration in final product. As a result, dyes industry will not accept such DMS.<br>▪ Pharma industry would not accept such a DMS. |
| Akyl Chemicals Ltd. | ▪ Final product (methyl amines) has application in life saving drugs such as metformin hydrochloride (diabetic drug), ranitidine (antacid), erythromycin (antibiotics), etc., any change in process of manufacture of these drugs will have adverse effect.<br>▪ Addition of bitterant and colourant would damage the catalyst. |
| Balaji Amines Ltd. | Same as above. |
| Balaji Formalin Pvt. Ltd. | ▪ Final product (paraformaldehyde) is in the form of white crystals – addition of colourant would lead to non-acceptance of the product.<br>▪ Bhabha Atomic Research Centre (BARC), India's atomic research centre, demands ulta-pure formaldehyde.<br>▪ Colourant would leave traces of colour in formaldehyde which is not acceptable to paint industry, pharma and drug industry. |
| Thermo Fisher Scientific India Pvt. Ltd. | ▪ Final product (Laboratory and Industry grade methyl alcohol) is used by pharma industries, and for research activities. Addition of |

| | |
|---|---|
| | bitterant and colourant would impact such analysis and manufacture of drugs.<br>▪ Purified methanol (99.9%) would not be supplied to pharma and laboratory research customers. |

45. *Secondly*, it is apposite to understand that the bitterant and colourant prescribed under sub-rule (2) are additives. What the provision achieves is mere identification at the cost of restricting marketability of the final product and imposing additional financial burden on the industries. It is one thing to identify addition of methanol in potable alcohol, however, that too operates only if and when the consumer notices it. It is another thing to prevent the manufacture of illicit liquor from methanol in the first place. This aspect of identification works like rearranging the deck chairs on the Titanic, to say that the measure addresses a surface level aspect and does not address the core issues of diversion and pilferage.

46. The respondent State failed to indicate that this practice of putting such additives would discourage or rather dissuade continuous usage of methanol or affect its chemical composition so that it cannot be used in making of spurious liquor. Further, the respondent State has also failed to indicate on how mixing of the additives would definitively prevent deaths. One another question that is left unanswered is how the respondent plans to prevent manufacturing of spurious liquor by the use of other adulterants. The respondent overlooked that identification is only a possibility. What was

expected from the respondent was to introduce stringent measures addressing diversion and pilferage, manner of disposal and return of unused methanol, etc.

47. The respondent has also not disputed that the denaturant cannot be diluted and masked through the addition of any colouring and flavouring agent. In other words, the mandate of sub-rule (2) fails to perform if any miscreant makes spurious liquor from methanol but thereafter masks the color and flavour.

48. What is discernable from the above is that in practicality, the impugned rules prescribe a regulatory framework that does not prevent the misuse of methanol in liquor which takes place in the unregulated field. The sub-rule even in the best case of full compliance cannot prevent the misuse it aims to prevent. Thus, it cannot be said to bear a reasonable and proximate nexus with the object it seeks to achieve. It addresses a mischief it does not in fact remedy while imposing a continuous burden on the industries.

49. There is no doubt that on matters affecting policy and requiring technical or administrative expertise, the courts would be reluctant to interfere and leave the matter for the experts to address. However, a policy that is irrational, or lacks rational justification, or is violative of any constitutional, statutory or any other provision of law is liable to be struck down. The courts can examine whether the Government has formulated the policy keeping in mind all the facts and is not

marred with unreasonableness. Afterall, the basic tenet of Article 14 is fairness in action and non-arbitrariness in essence.

50. We do not discredit the intention behind the introduction of the impugned rules. There is no doubt that the State was confronted with a serious public health concern. Although, the intention in mandating denaturants was *identification*, yet the intention solely would not pass the test of manifest arbitrariness.

51. In such circumstances referred to above, the impugned rules cannot be said to be reasonable or rather a rational application of mind in exercising the law-making power. The impugned notification is manifestly arbitrary and lacks rational nexus with the object sought to be achieved, thereby violating Article 14.

52. We may now address ourselves on the constitutional validity of Rule 18B. It reads thus:-

> "*18B. Methanol (Methyl Alcohol) to be confiscated if found without valid licence:*
> *Any Methanol (Methyl Alcohol) found to be in possession without a valid licence issued in Form A shall be confiscated.*"

53. This rule essentially states that no person can possess methanol without having a licence in Form A. The said rule would be rendered unworkable and otiose when applied in a case where a person is lawfully in possession of methanol by way of the Form B permit. At the same time, imposition of such

condition renders the permit redundant in its complete form and action.

54. We may now view the aforesaid from one another angle of proportionality analysis prescribed in ***K.S. Puttaswamy (Privacy-9 J.)* v. *Union of India***, reported in **(2017) 10 SCC 1**, which seeks answer to the following questions:-

(i) Is the state action in furtherance of a legitimate aim?
(ii) Is the state action suitable for achieving such an aim?
(iii) Is the measure necessary for achieving the aim? and
(iv) Is the measure adequately balanced with the right of the individual?

55. As regards, legitimacy of the aim, there can be no dispute that the impugned rules pursue a legitimate aim. We do not say for a moment that methanol is not a hazardous or toxic substance, and its sale and possession should not be subject to regulation. The prevention of loss of life arising from consumption of liquor adulterated with methanol is an object of utmost importance and the power to regulate poisons is governed by Sections 2 and 8, respectively.

56. The second test is whether the state action is suitable for achieving such an aim. The evaluation under this test would entail an analysis of whether the impugned restriction can further the intended objective. As discussed in the foregoing paragraphs of this judgment that by restricting the purchase of methanol through licensing framework under Rule 18A(1), and consequential action of confiscation under Rule 18B would not even remotely achieve the aim of stopping the addition of methanol in liquor.

57. As regards adoption of less restrictive measures, the State has failed in showing that no equally effective and less restrictive alternative was available. In our considered view, the check-points or rather the safeguards in the Maharashtra Poison Rules if implemented in letter and spirit would better address the problem of pilferage and diversion.

58. Finally, the answer to the last test lies in the question whether the burden placed on a class of citizens is out of proportion to the benefit it is likely to produce. On one hand lies the burden on the industries as noted in paragraph 44 above, namely, loss of yield, reduced life of catalyst leading to more byproduct formation impacting environment and quality of formaldehyde, high power consumption, reduced life of equipment, increased susceptibility of health hazards owing to improper evaporation, etc, while on the other, lies the benefit of identification which the State hopes would prevent the harm sought to be addressed. Thus, the burden on the industries is substantial and continuing but the benefit that the State claims to achieve is only a *possibility*.

59. The Chhaya Bar incident which moved the respondent State to introduce the amendments, occurred in 1991, however, neither from the materials on record, nor from the submissions on behalf of the State, we have been able to gauge the actions that were undertaken by the State between 1991 to 2011. The pressing question is, considering that the State was conscious of the causes behind such tragedies and committed towards

resolving it, what other measures apart from the amendment i.e., investigation, search, rigorous examination of records, probe into complaints of pilferage and sale of spurious liquor, did the State take to fight the menace of spurious liquor in these years. This question assumes greater importance in light of the fact that the stay on the operation of the impugned rules has been in operation for about 14 years now.

60. In such a view of the matter, we are of the considered opinion that that the impugned rules fail to pass the test of proportionality, and result in violation of the fundamental rights guaranteed under Article 19(1)(g) of the non-drug manufacturers.

**B. Few meaningful suggestions**

"*The death of one man is a tragedy,*
*the death of millions is a statistic*"

61. We are tempted to preface this part of our judgment with the words attributed to a French diplomat, as a satire to express the horrors of war, more particularly, the moral failure and indifference of those in power towards mass deaths, or deaths that are politically convenient to minimize.

62. The recent hooch tragedies at Bhavnagar, Gujarat and Sagar, Madhya Pradesh, which claimed around 13 and 15 lives, respectively, are again a reminder for the authorities to wake up and act.

63. History bears eloquent testimony to the fact that complete alcohol ban often drives the liquor trade underground,

increasing the prevalence of unregulated, lethal brews. Take the case of the State of Gujarat. The State of Gujarat has a strict prohibition policy. It is a dry State. The State of Gujarat has witnessed at least ten major mass hooch tragedies since the State's formation and independence, claiming the lives of over 600 people. Despite, the State of Gujarat maintaining a strict prohibition policy since its creation in 1960, hooch tragedies, (laththa laced with methanol) has rapidly led to severe public health crises. In the words of eminent jurist, the legendary Shri Nani Palkhiwala:

> *"Prohibition would be most desirable in every way but for a single unfortunate fact,-- the only thing is it is not prohibitive. In order that prohibition might be prohibitive, prohibition must be on the part of the governed and not the Government. When the Government begins to prohibit liquor, it ends in promoting liquor, because it cannot do otherwise for all that it's worth. All the statesmen from Augustus to Asquith have failed in their attempts to prohibit. Man cannot defeat man's nature. The question is not whether prohibition is good, the question is not whether prohibition is desirable or advisable. The question is whether the Government is justified in trying the experiment of prohibition. It has been hotly insisted upon that drink is disastrous, especially when in excess, and therefore it ought to be prohibited. Now, it is obvious to any mortal out of Bedlam that if a thing is an evil when used in excess, the remedy lies in preventing the excess. If drunkards are a nuisance, the remedy lies in preventing people from being drunkards, but NOT in preventing people from drinking. The Government cannot say that because some are drunkards nobody shall drink, the Government might as well say that because some are gluttons, nobody shall eat."*

*(A passage from the article written by Shri Nani Palkhiwala at the age of 17. It was originally published in the Gujarati-English weekly newspaper Jame Jamshed in October 1937. The piece was compiled and reproduced decades later in Essays and Reminiscences: A Festschrift in Honour of Nani A. Palkhiwala)*

64. It can be safely said that there are five evils associated with prohibition – (i) loss of revenue on taxes, (ii) expenditure on implementation and good money spent (iii) corruption in police and excise (iv) illegal distilling and in the present days, and (v) resultant drug menace.

65. In the present case, the report of the Parthasarthy Committee lays emphasis on taking care of the deficiencies, the implementation of the prohibition policy, and also the effective implementation of the provisions of the law. Therefore, in our opinion, having regard to the seriousness of the issue it will be in the larger public interest if the respondent takes into consideration the report of the Committee at the earliest and considers the recommendations and implement them effectively and meaningfully.

66. Before we close this matter, we must address ourselves on the important aspect as regards what steps could be taken to prevent hooch tragedies, and what best could be done for effective implementation of the policies. The following suggestions shall be discussed and looked into by all the States/Union Territories.

**As regards cooperation and working of various Departments**

I. There is a need to break the chain of supply and demand of liquor by strict implementation of the State Prohibition Law, if any. This will require a multipronged approach by the State Government, and will also involve participation of multiple Departments of the State such as Prohibition Department, Excise Department, Police Department, Transport Department, Industries Department, Health Department, Social Justice and Empowerment Department along with Non-Government Organizations.

II. As liquor is manufactured in the State and also brought from outside, implementation steps should involve strict monitoring at the State borders. In this regard, the State Transport Department being vigilant at the borders would help control illegal transport of liquor in the State. There shall be stationing of checking squad to check private vehicles as well. At the same time, it would be crucial to find out the mode by which huge quantities of liquor enter the city. Implementation of peripheral laws concerning procurement, manufacture, transportation of sale and consumption of liquor within the State would also prove critical in preventing hooch tragedies from occurring.

III. The State Police in coordination with the Prohibition Department and Excise Department, respectively, can identify and bring to book local breweries which are generally located in semi-industrial areas, congested areas

in the urban parts of the State. Many municipal school premises, which are open lands, are often used as storage grounds for illegal liquor. In such circumstances, the Education Department shall keep a check on school premises, and report to jurisdictional police in case of such storage.

IV. Any chemical solvent used in the manufacture of the spurious liquor is generally illegally procured from industrial units. Therefore, monitoring of industrial units by the Department of Industries would be useful to find out which industrial units are manufacturing such chemical solvents and selling them illegally to liquor makers.

**As regards the existing Rules in States/Union Territories**

V. The existing rules in the State, if any, which regulate methanol should be amended to include that conveying vehicles used in transport of liquor shall not be released on bond or surety in case of breach of any rule, till orders of court.

VI. The State Rules governing the grant of licence and permit require a comprehensive re-look, so as to ensure that a licence or permit is not granted as a matter of course but only after due verification of the antecedents, credentials, and genuine requirement of the applicant. Further, the rules should provide for periodic and regular scrutiny of licences and permits already granted, including verification of continued eligibility, actual usage, and

compliance with the conditions of grant, so that the grant of a licence or permit does not remain a one-time exercise but is subject to ongoing accountability.

VII. The State Rules should mandate periodic returns of unused or excess methanol by industrial consumers to the seller, or a designated authority, within a specified time frame, so as to prevent stockpiling beyond what is reasonably required for the consumer's manufacturing process. This will reduce the risk of pilferage or diversion of surplus stock.

VIII. Every licensee and permit-holder dealing in or consuming methanol should be required to maintain a record of consumption and closing stock, reconciled at periodic intervals, so that any unaccounted or unexplained shortfall between opening stock, consumption, and closing stock is flagged and investigated at the earliest.

IX. Any person who is found to have defaulted or breached the conditions of the licence or permit, or the Rules made thereunder, should be liable to have such licence or permit suspended or cancelled, as the case may be, and should further be debarred from being granted any fresh licence or permit.

X. Transport of methanol should be undertaken in dedicated tankers or containers earmarked exclusively for that purpose, so as to eliminate the possibility of pilferage or substitution that arises when methanol is transported in

general-purpose, or shared vehicles alongside other goods. Additionally, transportation and storage should be under strict supervision of excise authorities, regulatory measures being prescribed by rules and the excise officers being deputed to supervise transportation and the storage centers/facilities, their services being reimbursed by the entity who stocks and transports methanol.

XI. Containers and tankers used for transport and storage of methanol should be sealed in a tamper-evident manner at the point of dispatch, such that they cannot be opened, and no residual quantity can be siphoned, or left unaccounted for at the bottom of the container, except by the authorized personnel of the consuming industry at the point of receipt, with the seal number and condition recorded both at dispatch and at receipt.

**As regards health and awareness**

XII. The State Health and Family Welfare Department should have a comprehensive policy and a specialized cell to handle liquor tragedies. When there are large scale casualties, public hospitals are in complete chaos in the face of the sudden emergency. Experiences of the past show that these hospitals are hardly equipped with the necessary specialized medicines or equipment required to handle such emergencies. A comprehensive disaster management system and policy should be in place for handling such emergencies.

XIII. The State Government should increase the number of de-addiction centers and fully operationalize already existing centers. The deaddiction centers should be given the additional responsibility of reaching out to liquor affected families so that the prohibition laws, if any, can be implemented well and gradually there can be some positive outcome.

XIV. The consumption of liquor and its consequences often lead to disruption of families. Therefore, there should be family counseling centers in each local area, especially for such families who are suffering in silence the travails of liquor consumption.

XV. The general public's cooperation in informing the law enforcing agencies is very important as far as implementation of laws regulating alcohol and prohibition law, respectively, is concerned. An awareness campaign should be conducted by the State Governments and NGOs regarding the prohibition law and its implementation.

67. We are of the view that in the matters of the present nature, although the Court may issue various directions, yet it is the police machinery that should rise to the occasion and see to it that the provisions of the Act governing regulation of alcohol are implemented strictly and effectively.

**V. CONCLUSION**

68. For all the aforesaid reasons, we have reached the conclusion that the impugned rules are violative of Articles 14 and 19(1)(g) of the Constitution, respectively.

69. In the result, the petitions stand allowed in the aforesaid terms. Pending applications, if any, also stand disposed of.

70. The civil appeal is disposed of in above terms.

71. Registry shall forward one copy each of this judgment to all the High Courts, and one copy each to all the Chief Secretaries of the respective States.

**.....J.**
**(J.B. PARDIWALA)**

**.....J.**
**(K. VINOD CHANDRAN)**

**New Delhi;**
**September 18, 2026.**