

Ban Of Liquor Sale in Indian Highways: Need of The Hour

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Abstract—The debate surrounding the ban on liquor sales along Indian highways raises critical questions at the intersection of constitutional rights, public safety, and economic interests. This paper examines the legal and practical justifications for such a ban, focusing on its impact on road safety and its constitutional validity under Articles 19(1)(g) and 21 of the Constitution of India. While the sale of liquor constitutes a legitimate economic activity protected under the freedom of trade and business, it is not absolute and is subject to reasonable restrictions in the interest of the general public. The study highlights the direct correlation between the availability of liquor on highways and the increasing incidence of road accidents caused by drunk driving. Judicial interventions, particularly the Supreme Court’s directive restricting liquor outlets near highways, demonstrate a policy shift prioritizing the right to life and public safety over unrestricted commercial freedom. The analysis further explores how courts have consistently upheld restrictions on harmful trades when they pose a threat to societal welfare, emphasizing the principle that public health and safety must prevail over economic considerations. At the same time, the paper addresses concerns regarding employment and revenue loss, arguing that the policy adopts a proportionate approach by allowing relocation of liquor outlets rather than imposing a total prohibition. This ensures a balance between individual economic rights and collective safety. The paper concludes that the ban on liquor sales along highways is a constitutionally valid and socially necessary measure. It reflects a broader shift in Indian jurisprudence toward prioritizing welfare and precautionary principles, thereby reinforcing the state’s duty to protect life and public safety while maintaining a balanced regulatory framework.

Index Terms—Liquor Ban, Road Safety, Article 21, Reasonable Restrictions, Public Welfare

I. INTRODUCTION

Liquor sale plays a crucial role in the growth of the Indian economy. The sale of liquor also generates employment opportunities for numerous citizens’ whose livelihood is dependent on the same. The sale of liquor in the Indian highways however, has led to the death of various lives due to accidents. There has been a steady rise in the number of accidents in Indian highways and the same can be attributed to the sale of liquor in the highways. Most of the accidents are a result of alcohol induced drunk and driving. There have been numerous debates on whether the sale of alcohol in Indian highways is to be banned or not. Those in favour of the ban of sale of liquor in Indian highways argue that while the sale is a facet of the fundamental right to freedom of profession, trade, business or occupation under Art. 19(1)(g)¹, it ought to be noted that the consumption of alcohol in the highways lead to numerous accidents and while the number of accidents vary on an annual basis, the fact that there arise accidents is still a constant. The fundamental right to life under Art. 21 is thereby violated.²

Every person has the Right to freedom of trade, occupation, business or practice profession under Art. 19(1)(g)³ however, these rights are subject to certain restrictions that the State may deem reasonable under Art. 19(6) which provides for reasonable restrictions in the interest of the general public.⁴ The Constitution provides for the Right to life under Art. 21 which states that no person shall be deprived of his life, personal

¹ INDIA CONST. art. 19(1)(g).

² INDIA CONST. art. 21.

³ INDIA CONST. art. 19(1)(g).

⁴ INDIA CONST. art. 19(6).

liberty except in procedure established by law.⁵ Therefore, the interest of the general public in this regard is to ban the sale of alcohol in highways to minimise accidents.

It ought to be noted that manufacturers are free to sell alcohol to other places which means that the restriction is not complete and is reasonable as when the prohibition is only with respect to the exercise of a right referable only in a particular area of activity, it is not total prohibition.⁶ Reasonableness of restriction is to be determined in an objective manner and from the standpoint of interests of the general public and not from the standpoint of the interests of persons upon whom the restrictions have been imposed or upon abstract consideration.⁷

Safety, health and peace is guaranteed to the citizens of India and none can carry on any trade or business which may seriously affect safety, health and peace of the Community. Article 19(1)(g) of the Constitution of India does not guarantee the fundamental right to carry on trade or business which creates pollution or which takes away that communities' safety, health and peace.⁸ Thus, any trade that is harmful or dangerous to the society at large may be regulated or totally prohibited.⁹ In determining whether there is any unfairness involved the nature of the right alleged to have been infringed, the underlying purpose of the restriction imposed, the extent and urgency of the evil sought to be remedied thereby, the disproportion of the imposition, the prevailing condition at the relevant time enter into judicial verdict, the reasonableness of the legitimate expectation has to be determined with respect to the circumstances relating to the trade or business in question.¹⁰

II. FREEDOM UNDER ARTICLE 19

A regulation of trade and commerce becomes challengeable under Art. 19(1)(g), if it shown that it directly and proximately interferes in praesenti with

⁵ INDIA CONST. art. 21.

⁶ State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat, (2005) 8 SCC 534.

⁷ Bannari Amman Sugars Ltd. v. Commercial Tax Officer, (2005) 1 SCC 625.

⁸ Burrabazar Fire Works Dealers Association and Ors. v. The Commissioner of Police and Ors., AIR 1998 Cal 121.

the exercise of freedom of trade. The Hon'ble Supreme Court has emphasized that while there may be greater emphasis on nationalization and state control over industries, private ownership of industries is recognized; they form an overwhelmingly large structure of the economy therefore, socialism cannot go to the extent of ignoring the interest of all such persons.¹¹ Therefore, while a private sector enterprise differs from a public sector enterprise wherein in the latter, it can protect the labour even at the cost of the public exchequer, but a private undertaking on the contrary is run for return to the owner not only to meet his livelihood or expenses but also for the formation of capital of the national economy.

Thus, if looked at from the perspective of the liquor industries, then a total banning of liquor sale will eventually have an adverse impact on the employment of the citizens and the revenue earned, wherein Lakhs of employees will lose their jobs and the same would then result in a clear violation of Art. 19(1)(g) which guarantees every citizen the right to a profession or to carry on an occupation to meet their ends meet.¹² The restriction imposed by the State must not be arbitrary or excessive and such restrictions imposed by the law must be reasonable.¹³ While the Hon'ble Supreme Court has not yet imposed a total ban on the manufacture, sale and usage of liquor in highways, it ought to be noted that if the court in the future deems it fit to impose such a restriction of total prohibition, then the restriction is excessive in nature as the prohibition shall severely impact the right to freedom of profession, occupation, trade and business.

III. PRACTICAL EFFECTS OF BAN

Let us analyze certain practical issues in this regard, ranging from judicial interventions to reduce road accidents, empirical correlation between alcohol consumption and highway fatalities, Constitutional

⁹ Narendra Kumar v. Union of India, 1960(2) SCR 375.

¹⁰ Bannari Amman Sugars Ltd. v. Commercial Tax Officer, (2005) 1 SCC 625.

¹¹ Excel Wear v. Union of India, AIR 1979 SC 36.

¹² INDIA CONST. art. 19(1)(g).

¹³ State of Maharashtra v. Himmatbhai Narbheram, AIR 1970 SC 1157.

validity under reasonable restrictions, judicial preference of public welfare over economic interests, and proportionality through relocation over total prohibition.

The Supreme Court's directive in 2016 banning liquor shops within a specified distance from highways led to a noticeable reduction in alcohol-related road accidents in several states. This demonstrates a direct nexus between accessibility to alcohol and road safety. The restriction thus serves the broader objective of protecting life and personal liberty under Article 21 of the Constitution.¹⁴

Statistical trends in India consistently show that a significant proportion of road accidents are caused by drunk driving. The availability of liquor outlets along highways increases the likelihood of such incidents. As highlighted, the rise in highway accidents is closely linked to alcohol consumption, justifying regulatory intervention to mitigate this risk.

While the sale of liquor is protected under the freedom of trade and business under Article 19(1)(g), it is subject to reasonable restrictions in the interest of the general public. The highway ban does not impose a total prohibition but merely restricts the location of sale. Courts have consistently upheld that such targeted restrictions are valid when they serve public safety and welfare.¹⁵

Indian jurisprudence has repeatedly emphasized that when economic interests conflict with public health and safety, the latter must prevail. In environmental and public health cases, the Supreme Court has prioritized the welfare principle over economic considerations. The highway liquor ban reflects this approach, as it seeks to prevent loss of life even at the cost of reduced revenue or employment.¹⁶

The policy does not eliminate the liquor trade but allows for relocation of shops away from highways. This ensures that livelihoods are not entirely disrupted

while achieving the objective of reducing accidents. Such a measure satisfies the test of proportionality, as it balances individual economic rights with collective safety.¹⁷

It ought to be noted that these industries employ close to five lakh families.¹⁸ The nature of the situation suggests that there is a conflict between the source of livelihoods, the freedom of profession, occupation, trade or business and the protection of the environment and health of the citizens. Such a scenario was analysed and considered by the Hon'ble Supreme Court wherein it has been held that in such a situation, it becomes the bounden duty of the Court to have an economic analysis of its decisions.¹⁹

IV. CONCLUSION

However, while there is a conflict between the two fundamental rights, it has been held that during an economic analysis of a situation, whenever there is a conflict between the welfare principle and wealth principle, the former must prevail.²⁰ In fact, when the right to health and life is pitted against economic suffering, the latter will win. This is especially true when the state's economic loss as a result of the ban or limitation is weighed against the citizens' economic loss in the form of treatment costs.²¹ Furthermore, even if such adverse impact on the health of the citizens cannot be proven scientifically as to which action is more cost effective, the precautionary principle shall take precedence.²²

Therefore, it is essential for the safety of mankind to ban the sale of liquor in Indian highways to prevent further accidents. One solution to make sure the livelihoods are not hampered entirely, can be to relocate these liquor shops to another place away from the highways. There can be a rule that stipulates that no liquor shops are to be present within a 2km radius

¹⁴ State of Tamil Nadu v. K. Balu, (2017) 2 S.C.C. 281 (India); INDIA CONST. art. 21.

¹⁵ INDIA CONST. arts. 19(1)(g), 19(6); State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat, (2005) 8 S.C.C. 534 (India).

¹⁶ M.C. Mehta v. Union of India, A.I.R. 2018 S.C. 5194 (India); Arjun Gopal v. Union of India, A.I.R. 2018 S.C. 5731 (India).

¹⁷ Bannari Amman Sugars Ltd. v. Commercial Tax Officer, (2005) 1 S.C.C. 625 (India)

¹⁸ Arjun Gopal v. Union of India, AIR 2018 SC 5731.

¹⁹ Shivashakti Sugars Limited v. Shree Renuka Sugar Limited & Ors. (2017) 7 SCC 729.

²⁰ MC Mehta v. Union of India, AIR 2018 SC 5194.

²¹ Arjun Gopal v. Union of India, AIR 2018 SC 5731.

²² Principle 15, United Nations Conference on Environment and Development, Rio Declaration 1992.

of the highways similar to what the court said about mining operations and residential places.²³

²³ MC Mehta v. Union of India, (2004) 12 SCC 118.