



By ALBERTINA ALMEIDA

## No Bars on the Highway to Prevent Road Accidents: Is that the Solution?

The barring of bars along and within visibility of highways has had major repercussions for Goa, which as of 31st March, 2017, had 11,974 liquor outlets on its rolls. Considering Goa's corridor status, it has 224 kms of national highway and 232 kms of state highway. Hence 3178 of the liquor outlets (nearly 35%) are mapped as coming within the ambit of the much talked of Supreme Court judgement, that is 2290 bars, 789 retail liquor shops and 99 wholesale shops. Liquor outlets include bars, restaurants, wholesalers, retailers and warehouses. This count only takes into account the existing highways and not the ones that are proposed to fuel projects such the coal hub, in which case that many more outlets will come within purview of the Judgement.

What does this Supreme Court judgement direct? Primarily that there should be no liquor outlets within 500 metres from the national/state highways, and, in case of 20,000 plus populated areas, within 220 metres. Where there are licences already issued, the same should not be renewed and no new licences should be issued for liquor outlets located in these areas. A number of these bars also had a food licence. They are free to continue the restaurant minus the bar. However, in most cases, the restaurant was seen as an appendage and the key attraction was the bar.

So what really did the Supreme Court judgement set out to achieve? There were a set of petitions that the Apex Court was seized with which emerged out of a concern about accidents caused by drunken driving, that even resulted in fatalities. Therefore road safety was the plank around which this judgement was passed. The Supreme Court on perusing reports and recommendations of various bodies, including the National Road Safety Council, an apex road safety body, and a string of advisories issued by the Union Government to the States, concluded that drunken driving was a major killer in road accidents, and that banning liquor outlets on highways could in some measure address the problem. The Community Against Drunk Driving had pointed out that "Twenty-four hour availability of alcohol along national and state highways results in impulsive buying of alcohol and about 72 percent road accidents on highways".

Then came the question of whether this is only applicable to National Highways. The Apex Court considered it absurd that there should be different yardsticks for national highways and state highways, and mandated that the bar on bars and liquor outlets should not be limited to national highways but must also be applicable to state highways, and did not see this in dissonance with the State excise laws that frame the scope of location of liquor outlets.

The Court also considered it absurd that liquor outlets on the Highway should be banned and those in the vicinity or within visibility of the highway should be spared, hence it came out with the rule of 500 metres from the highway. On moving the Apex Court again, this was modified to 220 square metres for those areas having a population of less than 20,000.

In keeping with this directive of the Supreme Court and the demarcation carried out accordingly by the revenue officials at the instance of the Excise Department, the Excise Department of Goa constituted and despatched teams across the State to ensure strict compliance of the Supreme Court Judgement. The liquor outlets that came within the ambit of the Supreme Court Judgement downed their shutters from 1st April, after their licences were not renewed. Shortly thereafter, in the month of April 2017 itself, there has been a spate of accidents on Goa's streets, resulting in a number of fatalities, thereby highlighting the point that closure of bars may not be the panacea for ridding the roads of accidents or drunken driving. Add to this the valorized machismo on Goa's streets, and you have a heady mix that serves as the right impetus for an accident as many of these cases indicates.

No doubt supply of liquor has the uncanny knack of creating demand. And presence of liquor outlets prompts purchase and consumption, and to that extent there will be some respite. However, the Apex Court has failed to look at the larger picture of non-enforcement of the law that prevents driving after drinking. Or, for that matter, non-enforcement of provisions in excise laws in places like Goa, of advertising liquor products, primarily through surrogate advertisements. Neither has it looked at the issue of sensitization about road safety that will diffuse the macho attitudes that people pick up all along the way as they grow up.

Those who have misrepresented that their bars were located elsewhere and obtained the licence in collusion with excise authorities, may also escape at least temporarily. The

Commissioner of Excise is reported to have said that the licences of liquor outlets coming within the scope of the Supreme Court Judgement, would be cancelled forever, and further that if these outlets move out of 500 metres jurisdiction then they can apply for a fresh licence, even as their existing licence will not be renewed. It is also not as if accidents do not happen due to drunken driving on roads other than national and state highways, but yes, the Supreme Court Judgment myopically looked at just the National and the State highways and that too only from the angle of one cause of road accidents, that is drunken driving.

Having said that, the economic fallout of this judgement is going to be immense. Even though the Chief Minister claimed that the ban will have no major impact on state revenue, it is likely that the revenue from excise, reported to be Rs. 315 crores in Goa, will reduce. But one cannot forget that the lobbying power of the liquor industry is immense. Vani Agro Farms Pvt. Ltd. wielded such power that it got the legislators of the state to amend the Preservation of Trees Act to exempt coconut trees from the Act, so that it could cut the big cluster of coconut trees off the land it had acquired, for its alcohol and brewery plant. It even got the approval from the controversial Investment Promotion Board on the pretext that it would generate 500 jobs for local people at Sanguem, even though alcohol and brewery plants do not come within the thrust areas of the Investment Promotion Board.

Similarly, a section of persons who were employed by liquor outlets are going to be out of employment. The condition of the persons who have been living off the liquor outlets, along with their families, must be addressed. One has to distinguish between a well-oiled and polished liquor lobby that also has diversified investments in various other sectors, and the small and medium family-run enterprises that were dependent on liquor outlets for their livelihood. No doubt, there is the principle of *res extra commercium*, which means that by themselves, the liquor outlets are not entitled to be rehabilitated on non-renewal of their licences because they are supposed to be indulging in trade or business activities which are immoral by society's standards and liquor trade has been perceived by the Supreme Court as one such immoral activity. Immoral or not, if people have been living on the earnings of it over the years, and the State has facilitated this dependency, then the State has to take responsibility for rehabilitation.

What did the other States do? Some States denotified the state highways and labelled them urban or district roads, so as to get out of the ambit of the judgement, since the distances

had to be computed with reference to notified national and state highways, which shows the fickleness of the Supreme Court Judgement. Some States even requested the Centre for a similar denotification with respect to national highways. Other States petitioned the Supreme Court to review its own Judgement. Sikkim and Meghalaya were successful, with the case they made out of their topography.

The Maharashtra Government has found itself in the typical conundrum where it wants to satisfy the powerful liquor lobby on the one hand, and its shrill moral overtones on the other, prompting one of its own to say, "The liquor ban on highways is not about liquor but about road safety". One needs to pull their bluff in claiming saving sources of revenue, like excise duty, by denotifying state highways to classify them as urban or district roads. Because an equal amount of expenditure is called for in maintenance of these roads. Already prior denotifications of roads by some states resulted in those very states again approaching the Centre to renotify, on account of further deterioration of roads under the control of local self government bodies that do not even have the resources to maintain these roads. This in turn was seen as having made the roads more accident-prone.

Some liquor outlet owners proved to be even more enterprising. One such liquor outlet owner from Kerala, actually built a maze that lengthens the distance from the highway to the bar by around 250 to 300 metres and thus hopes to get out of the clutches of the Supreme Court Judgement.

Predictably the liquor traders' association which is headed by BJP's unsuccessful Taleigao candidate, Mr. Dattaprasad Naik, and the Travel and Tourism Association of Goa, have expressed resentment over this judgement. They argue that the judgement threatens the collapse of the liquor and tourism business. They have the CEO of Niti Ayog, India's new Planning Commission avatar, who says it will kill the tourism industry on their side. And this has also found an echo from the Union Tourism Minister. On the other hand, they have shown no social or legal contribution or responsibility to redress the concerns about drunken driving. They appear only to be concerned about Goa's image as an alcohol hub (for tourism) being dented, without a care about the implications that injuries and fatalities caused by accidents due to drunken driving, have for entire families, particularly on women and children. When women's groups have expressed concerns about the advertising of liquor including surrogate advertising, there has been no inclination to pay attention, or rather authorities have looked

the other way.



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At another level, various 'res extra commercium' businesses have been touted as coup de grâce for the pathetic financial debt situation of the State. States have often justified the res extra commercium businesses on the plea that they fetch the State huge sums of revenue. Then there is the multiplier revenue earned from having reduced excise duty rates, so as to draw tourists, particularly Indian tourists who throng in hordes and are projected as contributing to the State's revenue by patronizing its businesses, including liquor business. The State simply refuses to consider a small and medium enterprise local stake holder led model of development.

Another argument has been that drunken driving is not a major source of accidents. The National Crime Record Bureau statistics of 2015 indicate that 1% of all accidents nationally are due to drunk driving, 31% due to reckless driving and 43% due to speeding. Goa has recorded 19 accidents due to drunken driving, of which one has been fatal, out of a total 4338 accidents. So this means 0.4% of the accidents can be statistically attributed to drunken driving. The situation is not far different in Gujarat, which is a dry state, where the percentage of accidents due to drunken driving is recorded as 0.25%. This reinforces the point that lack of effective enforcement of the law against drunken driving is the prime cause for fatal accidents resulting from drunken driving. It also does raise the point that statistical records belie the reality, because it is apparent that there have been more accidents than the statistics indicate due to drunken driving, but the police have not booked the cases as resulting from drunken driving. Apart from that, the road safety issues remain hardly addressed if so many injuries and fatalities have resulted from speeding and reckless driving. Even the most recently announced measures by way of purchase of equipment such as radars, speedometers, alcometers, vehicles, and installation of CCTVs and interceptors, is only reinforcing the State's complete lack of a sustainable and accountable economic vision for Goa. On the contrary, the State seems to use every opportunity to become a surveillance state, to facilitate massive corporate growth at the cost of the people.

It is precisely this lack of a people-centric economic vision that will take care of people's livelihoods and health and be sustainable and the lack of an accountable governance, coupled with selective impacts on the already marginalized populations that are already reeling under the social and economic crisis, that casts a super-shadow on what could have

possibly been some positive fallouts of the Supreme Court Judgement.



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Yet another point being made in this age of don't-eat-this-don't-dress-that, is that in a democratic society, each person should have the right to drink whatsoever he wants and however much she wants. That may be so, but the flaw however in this argument is that it is a liberal argument that fails to look at the cost of the lives of other human beings, at which this freedom is being exercised.

It seems that the only way that the State can get out of the present conundrum is one, to improve revenue collection from other sources that are sustainable, two, to have coordinated action on road safety and to hold accountable officials for non-enforcement of sanctions against traffic violations, three, to offer a rehabilitation package for the liquor outlets and particularly those who were working for the long existing liquor outlets, proportionate to the number of years that they have been in business, four, to conduct sensitization through various media on the perils of drunken and erratic driving and to demystify and deconstruct the supermanhood that is ascribed to those who drive with speed, five, to address issues of surrogate advertising of liquor.

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