

(30) THE MAHARASHTRA TODDY SHOPS (GRANT OF LICENCES BY AUCTION OR TENDER) ORDER, 2001

1. G. O., H. D., No. TOD. 1068/C/1126(a)/III, dated 19th September 1968 (M. G., Pt. IV-B, p. 1388).
2. Amended by G. O., II. D., No. TOD, 1069/35191-III, dated 4th July 1969 (M. G. Pt. IV-B. P. 942).
3. Amended by Corrig., II. D., No. TOD, 1068-C-1126-(a)-III, dated 31st July 1969 (M. G., Pt. IV-B. P. 1079).
4. Amended by G. O., II. D., No. TOD, 1070/32854-III, dated 10th July 1970 (M. G., Pt. IV-B. P. 947).
5. Amended by G. O., II. D., No. TOD, 11870/62135-III-(a) dated 8th July 1971 (M. G., Pt. IV-B. P. 1077).
6. Amended by G. O., II. D., No. TOD, 11870/62135-III, dated 18th September 1974 (M. G. Pt. IV-B. P. 1121).
7. Amended by G. O., II. D., No. TOD, 0274/4-III, dated 23rd June 1975 (M. G., Pt. IV-B. P. 601).
8. Amended by G. O., II. D., No. TOD, 0175-XXIX-PR, dated 2nd August 1976 (M. G., Pt. IV-B. P. 933).
9. Amended by G. O., II. D., No. TOD, 0881/99-PRO-3, dated 12th July 1982 (M. G. Pt. IV-B. P. 714).
10. Superseded by GOHD No. TOD., 1101/CR 5/EXC-3, dated 4 June 2001.
11. Amended by G. N. H. D. TOD., 1108/CR-I/EXC-3, dated 9th August 2010.

In exercise of the powers conferred by clauses (k), (l), (m) of sub-section (1) of section 139 of the Bombay Prohibition Act, 1949 (Bom. XXV of 1949), and of all other powers enabling it in that behalf and in supersession of the Maharashtra Toddy Shops (Grant of Licences by Auction or Tender) Order, 1968 and instruments thereunder the Government of Maharashtra is pleased to make the following Order namely :—

1. *Short title.*—This Order may be called the Maharashtra Toddy Shops (Grant of licences by Auction-cum-Tender) Order, 2001.
2. *Definitions.*—In this Order, unless the context requires otherwise.—
 - (a) “ Act ” means the Bombay Prohibition Act, 1949 ;
 - (b) “ auction ” means the manner of inviting tenders as well as bids in public auction for grant of licence for sale of Toddy ;
 - (c) “ Auction authority ” means the Collector or District Superintendent of the State Excise of the District authorised by the collector to conduct auctions and to call for tenders ;
 - (d) “ Auction Purchaser ” means the person whose bid or tender is accepted by the Auction Authority ;

(e) “ bid ” means an offer of bid money by bidder in an auction and includes a tender ;

(f) “ bidder ” means one who bids in an auction or makes an offer in tender ;

(g) “ bid-money ” means the consideration for the grant of licence under rule 4 of the Maharashtra Toddy Shops (Licensing) and Toddy Trees (Tapping) rules, 1968 payable by the purchaser comprising the licence fee ;

(h) “ Commissioner ” means Commissioner as defined under the Bombay Prohibition Act, 1949 ;

(i) “ hall ” means a place where auction shall be held ;

(j) “ highest bidder ” means the person who offers the highest bid-money by bid or tender ;

(k) “ licence ” means a licence granted in Form TD-1 under the Maharashtra Toddy Shops (Licensing) and Toddy Trees (Tapping) Rules, 1968 ;

(l) “ licensee ” means a person who has been granted a licence under the Maharashtra Toddy Shops (Licensing) and Toddy Trees (Tapping) Rules, 1968 ;

(m) “ Licensing Authority ” means the Collector ;

(n) “ licence fee ” means bid-money payable for grant of licence ;

(o) “ Society ” means a Co-operative society of tappers registered or deemed to be registered under the Maharashtra Co-operative Societies Act, 1960 ;

(p) “ Superintendent ” means the Superintendent of State Excise ;

(q) “ toddy ” means fermented juice drawn from a concout, brab, date or any kind of palm tree, containing not more than five per cent alcohol by volume, but does not include sweet toddy, nira or neera ;

(r) “ toddy year ” means the year commencing from 1st September and ending on 31st August of the next calendar year.

3. Procedure for Grant of Licence.— (1) The licence for shops shall be granted by Auction-cum-Tender system on payment of bid money, by the collector as specified hereinafter.

¹[“ (2) The licence shall be granted for a toddy year and it may be renewed every year, maximum upto four years.

(2A) The fees for renewal of licence for the toddy year 2010-2011 shall be equivalent to the fees of licence for the previous toddy year 2009-2010 and the fees of renewal of licence for any subsequent year shall be increased upto six percent of the fees of licence for the previous year as notified by the Government.

(2B) The renewal of licence shall be done before the 1st September of every year ”.]

(3) The licence shall be granted in Form TD-1 as prescribed under rule 4 of the Maharashtra Toddy Shops (Licensing) and Toddy Trees (Tapping) Rule, 1968.

¹ Subs. by G. N. of 9-8-2010.

4. Auction-cum-Tender Notice.—(1) Subject to any directions issued by the State Government or Commissioner in that behalf, the Collector shall issue public notice stating that auctions will be held for grant of licences, in the manner stated in the notice.

(2) The notice shall specify the localities in which toddy shops may be situated, the number of shops which may be licensed in each such locality, the shops which may be grouped together for auctioning Licensed and the date, time and place at which tenders shall be received and auctions in respect of each such shop or a group of shops may be held. The notice shall also state that auctions shall be held in accordance with the provisions of this order and shall be binding on the persons bidding at such auctions.

(3) Such notice shall be issued not less than fifteen days before the date of the auction, and shall be given wide publicity in such suitable manner as the Collector may deem fit. A copy of such notice shall be kept in the office of the Collector and the Superintendent and shall also be made available to any person on request during office hours on working days.

(4) The Auction Authority shall proceed with auction on the appointed date or dates. In case if general postponement is necessary for any reason the Licensing Authority shall report it immediately to the Commissioner with a brief statement of reasons for the postponement.

Any unsettled shops at such auction shall be settled at a subsequent auction.

(5) The settlement of licences not settled on the previous date of auction and on opening of the tenders, shall be made within ten days of the date of postponement. As far as possible the Auction Authority shall declare the date of re-auction at the closure of undecided auction and shall also notify about the re-auction programme in a local daily newspaper.

5. Opening of additional shop(s) in certain cases.—If a licensee, having paid full amount of the bid in respect of his licenced shop, in a locality for any reason, closes down his licensed toddy shops or does not carry on his licensed shop to the satisfaction of the Collector in any locality, the Collector may sanction additional toddy shop or shops in the locality and auction such shop or shops during the Toddy year.

6. Solvency Certificate required before bidding.—No person shall be permitted to bid at an auction unless he produces before the Auction Authority a solvency certificate, in the case of a society from any officer appointed under section 3 of the Maharashtra Co-operative Societies Act, 1960, and in any other case, from a revenue officer duly authorised by the State Government from time to time in this behalf or he produces such other documents regarding his financial capacity to the satisfaction of the Auction Authority.

7. Powers of Auction Authority to refuse or to accept bids from certain persons.—No person shall be allowed to bid at any auction.—

(a) If he holds a licence in Form C. L. III under rule 24 of the Maharashtra Country Liquor Rules, 1973 ;

(b) If he is a defaulter of the excise revenue :

1 Subs. by G. N. of 9-8-2010.

Provided that, if name of tenderer or auctioner finds place in the list of defaulters circulated by the licensing Authority, or Commissioner having arrears of excise revenue he may bid at the auction if he makes payment of the entire arrears due against him along with penal interest at the rate prescribed under section 114 of the Act before the auction and also furnishes a stamped undertaking for depositing dues of Excise arrears, if any, as per calculations in the District, within two weeks after the conclusion of the auction, or the commencement of the licence for running the shop, whichever is earlier ;

(c) The Auction Authority may refuse to accept a bid from any person at an auction or disallow any person from bidding at the auction or refuse to accept a tender submitted by any person, if such person has been convicted of any offence under the Act, or of any cognizable and non-bailable offence, or of any offence under the Narcotics Drugs and Psychotropic Substances Act., 1985, or under the Drugs and Cosmetics Act, 1940 or the Bombay Drugs (Control) Act, 1959 or the Trade and Merchandise Marks Act, 1958 or of any offence punishable under section 482 to 489 (both inclusive) of the Indian Penal Code, or of any offence punishable under Chapter XIV of the Customs Act, 1962.

8. Duly Authorised persons to bid on behalf of others.—No person shall be allowed to bid on behalf of a person unless he holds a duly executed power of attorney from the another person, and in case of a society, unless he holds an authorisation from the Managing Committee of the society.

9. Bids to be offered for entire period of licence.—Except as otherwise directed by the Auction Authority in this behalf, the bids to be offered shall be for securing licences for a period of Toddy year, and not for a part thereof. If there is a re-auction during the period of the licence, the bids offered shall be for the period as notified by the Auction Authority, which shall not extend beyond 31st Day of August next following the date of auction.

10. Declaration of partnership before bidding or acceptance of tender.—When two or more persons desire to hold a licence in partnership, they shall, before the bidding or acceptance of tender commences, declare their partnership to the Auction Authority. Only one person on behalf of the partnership shall be allowed to bid at the auction. Subject to the provisions of clause 18, if the auction or tender is accepted in their favour, they shall produce before the Auction Authority a Deed of Partnership, before the actual grant of licence.

11. Mode of submitting tender.—(1) A tender shall be submitted in a sealed cover addressed to the Auction Authority by the bidder himself or by any person holding a duly executed power of attorney from him not later than the last date and the time specified in the notice issued under clause 4 for the receipt of tenders before the commencement of the bidding for the shop or the group of shops, as the case may be.

(2) The cover containing the tender shall be superscribed with the words “ TENDER FOR THE GRANT OF LICENCES FOR RETAIL SALE OF TODDY IN THE SHOP OR GROUP OF SHOPS LOCATED IN TALUKA DISTRICT for the period from to ”.

(3) Where more than one tender are submitted by any one person in respect of the same shop or group of shops, the tender containing the highest offer shall be considered and not the other tenders. *The figures of the tenders shall be mentioned in words as well.*

(4) Every tender received shall be acknowledged by the Officer receiving it.

(5) No tender shall be conditional. Every conditional tender shall be rejected.

(6) Every tender shall be accompanied by an earnest money deposit of an amount not less than 1/10th amount of the tender. Such deposit shall be made either in cash or in the form of a demand draft on a Schedule Bank in favour of the Collector. Tenders not accompanied by such earnest money deposits shall be rejected. Earnest money deposited shall be returned to the unsuccessful tenderer. Such earnest money deposited by successful tenderer shall be adjusted towards one-fourth of the tender amount payable as provided in clause 20.

(7) The tenderer shall also be eligible to participate in the bidding at an auction for the same shop or group of shops.

(8) The tenderer shall be entitled to remain present at the place of auction and at the time of opening of the tender also, which shall be after the bidding is over, but his absence shall in no way affect the auction proceedings.

(9) The Auction Authority shall announce at the commencement of the auction, the number of tenders received for a particular shop or group of shops.

(10) The tenders shall be opened only when the Auction Authority is of the opinion that no further amount is likely to be offered than any bid offered for a shop or group of shops in an auction or in a postponed auction.

(11) No tender received after the time fixed in the auction notice or after the commencement of auction of a shop or group of shops, shall be taken into consideration.

(12) *Withdrawal of tender.*— A tender once submitted shall not be withdrawn till rejected.

(13) *Scrutiny of tender.*—The Auction Authority shall, on the day, and at the time and place, specified in the notice issued under clause 4, and immediately after public auction is held open in the presence of such of the tenderers and bidders as are present, all the tenders duly received by him, make a list of the offers made and may, after the tenders are recorded in respect of all shops, or groups of shops, accept or reject after recording his reasons therefore, the highest offer, and announce the same.

(14) Auction procedure.—(1) The auction shall be held at the headquarters of the District or any other convenient place duly mentioned in the auction notice and shall be presided over by the Auction Authority.

(2) The Auction Authority conducting the auction may withdraw the auction of any shop before the auction is commenced under instructions of the Commissioner, alongwith reason for such action.

(3) As a rule, bids should not be taken in amounts smaller than multiples of Rs. 100 up to Rs. 10,000 and all bids above ten thousand rupees should be in multiples of Rs. 500.

(4) Following precautions need to be observed while deciding the bids :—

(i) care should be taken in while accepting the bids which are obviously in excess of fair market value of the licence or which are the result of speculation or ulterior motive, the acceptance or such bids as may be injurious to the interests of the consumers and ultimately to the excise revenue.

(ii) It is necessary to guard against the acceptance of bids which may have the effect of constituting an over or covert monopoly and against the acceptance, as licence holders of undesirable persons of doubtful solvency or criminal background.

(5) (a) The Auction Authority who is conducting the auction shall record the name of each person making a bid and the amounts of his bids.

(b) The signature of the highest bidder and the next two lower bidders shall be taken on the bid sheet.

(c) At the time of auction the auction purchaser shall sign his name or affix his thumb-impression against the relevant entry in the statement as may be prescribe by the Commissioner.

It shall be explained at the time of auction that the deposit paid in advance shall be returned in the event of the tender called earlier is found higher than bid and his bid will not be accepted. The final bid accepted shall invariable be recorded in words with his own hand by the officer conducting the auction and shall be considered in accordance with clause 17.

15. *Hall Ticket.*---(1) No person other than the officers on duty shall enter the place of auction without presenting a hall ticket. The hall ticket may be issued either by the Superintendent of State Excises on the concerned District or by the officer authorised by Superintendent or the Collector to any bidder or tenderer only after he deposits rupees one thousand in cash or a demand draft of an equivalent amount obtained in favour of the Auction Authority.

(2) The demand draft so submitted or cash deposited shall be returned at the end of auction to the unsuccessful bidders.

(16) *General conditions to be read and explained.*---Before the commencement of auction proceeding the general conditions of auction shall be read out and explained to all present, so that competitors may clearly understand the conditions on which they bid.

(17) *Acceptance of bid or tender.*---(1) Subject to the provisions of clause 18 after receiving bids and opening the tenders the Auction Authority shall consider all the bids and tenders and take decision, as far as possible. On the same day, regarding the settlement of licences. The Auction Authority shall take decision which is best in the interest of State revenue and is not bound to accept the highest or any bid or tender. In case the highest bid or tender is not accepted and the Collector decides to consider the next higher bid or tender the same shall immediately be reported to the Commissioner, alongwith reasons for not accepting highest one. The Commissioner, may either accept one of the bids or tenders received at the auction or order re-auction :

Provided that, where the amount of the highest of the bid at any auction respect of an individual shop or group of shops does not exceed the price expected by the

Collector, the Collector shall not accept any bid, and shall proceed for re-auction as provided in sub-clause (5) of clause 4 :

Provided further that, where two or more bidders who have made highest offers which consists of the same amount, the bidders, whose offer should be accepted shall be determined by the Auction Authority by drawing lots.

(2) Once a bid, as above referred has been finally accepted at an auction no subsequent offer or offers in respect of the same engagement shall be considered Auction Authority shall not make any negotiations and auction once finalised can not be reopened by the Auction Authority.

18. *Acceptance of bids at auctions.*— (1) The offers made at an auction by the highest bidder may be accepted by the Auction Authority after considering the tenders as prescribed under clause 20.

(2) In case of shops which are grouped together for auction announced in the public notice under clause 4, the Auction Authority shall proceed as follows :—

(a) The licence shall be auctioned by the Auction Authority separately in respect of each individual shop in the group, and ascertain the amount of the highest bid and the person making such bid ;

(b) Thereafter, the Auction Authority shall put to auction the licences in respect of all the shops forming the group and shall ascertain the amount offered by the highest bidder for the whole group put to auction.

(c) If the amount of the highest bid for the group exceeds the aggregate amount of the highest bids for individual shops in that group then the Auction Authority may, accept the highest bid for the group. If the aggregate amount of the highest bids for individual shops in the group exceeds the amount of the highest bid for the group or if no bids are received for the group then the Auction Authority may, accept the highest bid for each individual shops.

19. *Successful bidder not entitle to any compensation for his loss.*—No compensation shall be payable for lossess suffered by the successful bidder due to any cause whatsoever.

20. *Auction Purchaser to pay whole or part of amount of bid and execute bond*—A person whose bid or tender is accepted shall, at once, or on the next working day, pay to the officer, duly authorised by the Collector in this behalf, or into a Government Treasury or Sub-Treasury, one fourth of the amount of the bid or tender, unless he has paid on the sopt the whole amount of his bid or tender in cash or has furnished security as precribed by the Government or Commissioner from time to time and shall execute a bond in the form appended to this Order.

21. *Deposit*—Every auction purchaser shall pay to the Licencing Authority, a Security Deposit equal to the amount of one monthly installment in terms of clause 24, before the commencement of the year for which his bid has been accepted, for the due observance of the terms and conditions of the licence granted and the counterpart agreement to be executed by him as provided in the rules made in this behalf. Such amount shall be paid in cash into a Government Treasury or Sub-Treasury and unless it is forfeited for the breach of the terms and conditions of the licence or the counterpart agreement executed under cluase 23, it shall be adjusted towards the payment of the last monthly installment payable as provided in clause 24.

22. *Defaulting auction purchaser liable for any loss*—If the auction purchaser fails to pay one-fourth of the amount as provided in clause 20 the collector shall cancel the acceptance of his bid and may *accept the next higher bid* or re-auction the shop or groups of shops and in that event the earnest money deposited by the auction purchaser shall stand forfeited to the state Government and the defaulting auction purchaser shall be liable for any loss sustained by the State Government in accepting the next higher bid or bid money received in re-auction. If the amount realised at subsequent auction is less than the first, or the differential amount if next higher bid amount is accepted in the first auction, the amount of such difference is not paid by the defaulter it shall be recovered from him as an arrear of land revenue.

23. *Counterpart agreement*.—Every auction purchaser shall, on payment of the amount referred to in clause 21, execute before the Superintendent concerned, a counterpart agreement as prescribed in the Maharashtra Toddy Shops (Licensing) and Toddy Trees (Tapping) Rules, 1968 in this behalf within fifteen days of the date of the auction.

24. *Manner of payment of balance of bid amount etc.*—(1) Subject to the provisions of sub-clause (2), every auction purchaser shall, except as provided in clause 20, pay the balance of the bid amount in six equal monthly instalments into any Government Treasury or Sub-Treasury. The first monthly instalment shall be paid not later than the 5th of October of the year in which the bid or tender is accepted, and subsequent instalments not later than the 5th day of every following month. If any monthly instalment is not paid on the due date, there shall be charged, interest at the rate prescribed under section 114 of the Act on all outstanding instalments.

(2) If any instalment is not paid on or before the last day of the month in which it is payable, the Collector may-auction the licence, or where a bid accepted is for a group of shops, the licences for such group of shops, at the cost of the defaulting bidder, and in that event, the licence or group of licences, if granted, shall stand cancelled in accordance with the provisions of the Act and the rules thereunder. Where any such licence is so re-auctioned or where the licence of the auction purchaser is cancelled under section 54 of the Act before the balance of the bid amount is paid by the bidder, the bid amount due from him shall be liable to be recovered from him as the arrear of land revenue.

25. *Commencement of period of licence*.—The licence in favour of an auction purchaser shall be effective from 1st September of the Toddy year or if auction is conducted after 1st September during the Toddy year from the date of acceptance of bid.

26. *List of unsold shops to be submitted to Excise Commissioner*.—A list of all sanctioned shops of which it has not been found possible to effect a settlement should be submitted for orders to the Commissioner immediately by the Collector with a brief statement of the action proposed in each case.

27. *Savings*.—Notwithstanding the supersessions of the Maharashtra of Toddy Shops (Grant of licences by Auction or Tender) Order, 1968, any licence, permit pass or permission granted or issued under the said Order shall, so far as it is not inconsistent with the provisions of this Order, continue to be in force and shall be deemed to have been granted or issued under the corresponding provision of this Order until the expiry of the term for which it was granted or issued or until it is suspended or cancelled in accordance with the provisions of the Act or this Order, as the case may be.

