

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 14886 OF 2022

Sukhvinder Kaur Kartarsingh Dhillon .. Petitioner

Versus

The Commissioner of Police, Thane and .. Respondents
anr

WITH

WRIT PETITION NO. 14893 OF 2022

Narayan Bodi Sahu .. Petitioner

Versus

The Commissioner of Police, Thane and .. Respondents
ors

WITH

WRIT PETITION NO. 14892 OF 2022

Sanjeeva Shetty .. Petitioner

Versus

The Commissioner of Police, Thane and .. Respondents
anr

WITH

WRIT PETITION NO. 14909 OF 2022

Mahesh Shivram Puthran .. Petitioner

Versus

The Commissioner of Police, Thane and .. Respondents
ors

WITH

WRIT PETITION NO. 15943 OF 2022

Suresh Motiram Mali .. Petitioner

Versus

The Commissioner of Police, Thane and .. Respondents
anr

WITH

WRIT PETITION NO. 14884 OF 2022

Sindhu Tukaram Deshmukh .. Petitioner

Versus

The Commissioner of Police, Thane and
ors .. Respondents

WITH

WRIT PETITION NO. 14895 OF 2022

Raakesh H. Jain .. Petitioner

Versus

The Commissioner of Police, Thane and
ors .. Respondents

WITH

WRIT PETITION NO. 14897 OF 2022

Naresh Balaram Bhoir .. Petitioner

Versus

The Commissioner of Police, Thane and
anr .. Respondents

WITH

WRIT PETITION NO. 14891 OF 2022

Devdas Sadashiv Shetty .. Petitioner

Versus

The Commissioner of Police, Thane and
ors .. Respondents

WITH

WRIT PETITION NO. 15946 OF 2022

Darshankaur Vazirsingh .. Petitioner

Versus

The Commissioner of Police, Thane and
ors .. Respondents

..

Ms.Veena Thadhani a/w Rutuja Gaikwad for the Petitioners.

Mr.Karan Thorat, B Panel Counsel for State in WP
No.15943/2022.

Ms.Nisha Mehra, AGP for State in all other matters.

**CORAM : BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ
DATED : 2nd JULY, 2026.**

JUDGMENT:- (Per Bharati Dangre, J)

1 The counsel for the petitioners is at liberty to file her vakalatnama.

Amongst the 10 Writ Petitions listed before us, the aforesaid two Writ Petitions i.e. WP Nos.14893/2022 and WP No.14897/2022 having been rendered infructuous, are disposed of.

2 The Writ Petitions filed by individuals, who are granted Performance Licences under the Rules for Licensing and Controlling Places of Public Amusement (Other than Cinemas) and Performances for Public Amusement, including Cabaret Performances, Discotheque, Games, Game Parlors, Amusement Parlours providing computer Games, Virtual Reality Games, Cyber Cafes, Games with Net Connectivity, Bowling Alleys, Card Rooms, social Clubs, Sports Clubs, Melas and Tamashas, Rules, 1960, and based upon which they were carrying out activity/business in their Restaurants.

The petitioners filed Renewal Applications before the Competent Authority, as in the past their licences have been renewed time to time and the last renewal was upto 2019. However, it is pleaded that in March 2020 due to Covid Pandemic, an order was passed on 24/03/2020 under the

Epidemic Diseases Act, 1897 when complete lock-down was imposed. Similarly, the State Government also issued various orders under the said Act, under which all the Restaurants and Bars were directed to be shut down until further orders, and it was only on 25/02/2022, the Central Government issued order relaxing the restrictions imposed on 24/03/2020, which was honored by the State Government and the restrictions imposed were relaxed.

3. It is a pleaded case of the petitioners that though the Restaurants were permitted to carry on business, the orchestra performances were not allowed to re-start and therefore, for the years 2020 to 2021, the activity remained closed and thus, the performances licences were not operated at all.

The petitioners made applications for renewal of the licences, and requested for some relaxation in the licence fee for the year 2020 and 2021, as they were not permitted to operate the said licence, and they canvassed that increase in the licence fee from Rs.2,000/- to Rs.2,00,000/-, was already stayed by the Division Bench of this Court in WP No. 4712/2021 by passing an order on 17/11/2021, where Rule is also issued. It is the case of the petitioners that they are unable to continue the activities, and the learned counsel Ms. Thadani make a statement that pending renewal of performance licences, at a subsequent point of time, the petitioners started running their business and are presently operating the licence.

4 Though the State Government had not bothered to file its response, despite the petitions being filed in the year 2022, we have perused the petitions and the pleadings therein.

In the backdrop of the request of the petitioners to not charge them the licence fee for the Corona Pandemic period, as the Performance Licence was not at all put to use, as running of Orchestras was completely prohibited due to the pandemic and this prohibition remained in force from 24/03/2020 and the restrictions imposed were only relaxed on 25/02/2022, the Petitioners claim that they shall not be imposed with the liability of licence fee for the aforesaid period.

5 This precise concern was raised in WP No.4712/2021, when the Court took cognizance of the fact that the petitioner before the Court who was running a Restaurant and Bar based on the Premises Licence and Performance Licences which authorized him to hold orchestra music program, approached the Court raising a grievance about the increase in annual licence fee from Rs.2000/- to Rs.2,00,000/-, and particularly this was being done with retrospective effect from 2018, as the petitioner had received a notice demanding the renewal fees for the orchestra licence of the period 2019 to 2021, and failing which it was threatened that the licence shall be cancelled.

6 With this background, the Division Bench took note of the fact that there is imposition of lock-down since March 2020 and the argument advanced that the premises were not 'entirely shut down' or 'not shut down for the whole period' was without

any merit, as definitely the 2020 lock-down had paralysed the activities of such establishment and the date on which the order was passed i.e. on 17/11/2021, the Court recorded that even today orchestra live performances are not being permitted.

Further, noting that the premises being shut and there being no patrons, the income or revenue of the establishments from in-house services or performances was reduced to zero, and as against this situation, the demand raised was excessive, disproportionate and paid no heed to the Pandemic and lock-down circumstances, which have even resulted in passing of judicial orders extending period of limitation and even ordering temporary cessation of action against illegal structures by the municipalities.

In these circumstances, interim relief came to be granted in terms of prayer clause (e) and (f).

7 In the wake of the aforesaid relief granted, the effect and operation of the impugned demand notice, served upon the petitioner was served, but by virtue of prayer clause (f), the effect and operation of the increase in licence fee for the Premises Licence with Orchestra Performances from Rs.2000/- to Rs.2,00,000/- i.e. the increase being 100 times over the earlier licence fee has also been stayed.

We are informed that the concerned Writ Petition is presently pending for adjudication before this Court along with the interim relief in terms of prayer clause (e) and (f).

As far as the group of Petitions before us are concerned,

the Petitioners make a request for deciding the Application for renewal of the Premises and Performance licence for carrying out Orchestra Program in the Restaurant owned by them without insisting the payment of licence fee for two years i.e. 2020 and 2021, as the activities were completely shut down on account of the imposition of restrictions on declaration of the Pandemic.

We are of the view that the petitioners deserve relaxation in payment of the licence fee definitely from 24/03/2020 till 25/02/2022, and as already noted by the Division Bench in the order of 17/11/2021 that judicial cognizance of the restrictions imposed during pandemic has already been taken. Further, the Hon'ble Apex Court, *In Re: Cognizance for Extension of Limitation*,¹ directed exclusion of the period of limitation for the aforesaid period, and by the orders passed by the Central Government, certain relaxations have been granted, even as regards payment of lease, rents etc.

Since the position cannot be disputed that the petitioners were unable to operate their licences in the year 2020 and 2021, we direct the Commissioner of Police, Thane City to consider this important aspect.

Furthermore, since there is a stay granted to the revision of the licence fee, enhancing it from Rs.2000/- to Rs. 2,00,000/-, we permit the respondent No.1 to compute the licence fee due and payable, by taking into account the stay on the revision of the licence fee and by computing the amount

¹ (2022) 3 SCC 117

due and payable till date, consider the applications of the petitioners for renewal of the licences.

8. Ms. Thadani for the petitioner make a statement that pending the Applications for renewal before Respondent No.1, the petitioners have already started their activities, we leave it open for Respondent No.1 to take appropriate action, which may include an action of shutting down the said premises if the operation was without the renewal of licences, or if an option is available to Respondent No.1 to recover the licence fee along with late payment/penalty amount, the Commissioner of Police, Thane city is entitled to take a decision in that regard on every individual application of the petitioners within a period of three months from today.

In light of the aforesaid, the respondent no.1, Commissioner of Police, Thane, shall take into account the aspect which is pressed into service by Ms.Thadani that every year, an application for renewal was filed and therefore, he shall ascertain as to what is the consequence of merely filing an application for renewal without the licence fee being paid.

(MANJUSHA DESHPANDE, J)

(BHARATI DANGRE, J.)